

***United States Court of Appeals
for the Second Circuit***



APPENDIX

NO. 77-4187

United States Court of Appeals
FOR THE SECOND CIRCUIT

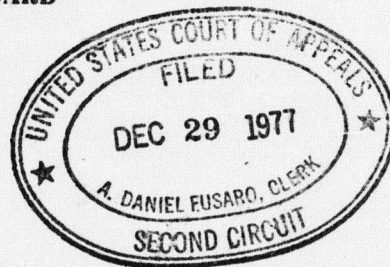
NATIONAL LABOR RELATIONS BOARD,
Petitioner,

B
PSS

v.

WINDHAM COMMUNITY MEMORIAL
HOSPITAL AND HATCH HOSPITAL
CORPORATION,
Respondent.

ON APPLICATION FOR ENFORCEMENT OF AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD



APPENDIX

ELLIOTT MOORE,
Deputy Associate General Counsel,
National Labor Relations Board.
Washington, D.C. 20570

I

I N D E X

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II

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of: Windham Community Memorial
Hospital and Hatch Hospital
Corporation

Case No.: 1-CA-12283

10. 4.76	Charge filed
11.19.76	Complaint and Notice of Hearing, dated
11.29.76	Respondent's Answer, dated
12.20.76	Regional Director's Order Rescheduling Hearing, dated
3. 7.77	General Counsel's Notice of Intent to Amend Complaint, dated
3. 7.77	Regional Director's Order Rescheduling place of Hearing, dated
3.15.77	Hearing Opened
3.15.77	Hearing Closed
5. 9.77	Administrative Law Judge's Decision issued
5.31.77	General Counsel's Statement of Exception, received
6. 2.77	Respondent's Exceptions, received
7.22.77	Decision and Order of the National Labor Relations Board, dated

BEFORE THE NATIONAL LABOR RELATIONS BOARD

First Region

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In the Matter of:

WINDHAM COMMUNITY MEMORIAL HOSPITAL
AND HATCH HOSPITAL CORPORATION

Respondent

-and-

WINDHAM COUNTY MEMORIAL HOSPITAL
REGISTERED NURSES UNIT 62, CONNECTICUT
NURSES ASSOCIATION

Charging Party

-----x

Room 308
National Guard Armory
Hartford, Connecticut

Tuesday, March 15, 1977

The above-entitled matter came on for hearing,
pursuant to Notice, at 10:20 a.m.

BEFORE:

Honorable JAMES L. ROSE, Administrative Law Judge

APPEARANCES:

PATRICIA TIMMONS,
Esq.National Labor Relations Board,
Keystone Building, 99 High
Street, Boston, Massachusetts;
appearing as Counsel for the
General Counsel.ROBERT SNOW, JR.,
Esq.Wiggin & Dana, 195 Church
Street, New Haven, Connecticut
06508; appearing on behalf of
the Respondent.

I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Mary Lou Millar (V.D. 18)	14	23	27	--
Robert B. Snow, Jr.	30	36	43	44
Frank E. Ritchie	47	54	58 69 72	60 63 75
Barbara Kane	77	92	99	
Kenneth Tremblay	100	102		
Mary Lou Millar (Recalled)	104	108		

EXHIBITSFOR IDENTIFICATION IN EVIDENCEGeneral Counsel's:

GC-1(a)-(2)	3	4
GC-2	17	18

Joint:

J-1	6	6
J-2	7	8

Respondent's:

R-1	33	34
R-2	75	75

P R O C E E D I N G S

10:20 a.m.

JUDGE ROSE: This is a formal hearing before the National Labor Relations Board in the matter of Windham Community Memorial Hospital and Hatch Hospital Corporation, Case Number 1-CA-12,283.

The Administrative Law Judge conducting this hearing is James L. Rose.

Will Counsel for the respective parties please state their appearances for the record?

MS. TIMMONS: For the General Counsel, Patricia L. Timmons, 99 High Street, Boston, Massachusetts.

MR. SNOW: For the Employer, Robert B. Snow, Jr., firm of Wiggin and Dana, Box 1832, 195 Church Street, New Haven, Connecticut 06508.

JUDGE ROSE: Is the Charging Party represented?

MS. TIMMONS: No, he's not.

JUDGE ROSE: Okay, do you want to introduce the formal papers, Ms. Timmons?

MS. TIMMONS: Yes, Your Honor. At this time, I offer in to evidence as General Counsel's Exhibit 1(a) through 1(l), the formal documents in this procedure and I'm showing them to Mr. Snow.

(The documents, above-referred to, were marked as General Counsel's Exhibit Number 1(a) - 1(l), for identification.)

1 MS. TIMMONS: And it's my understanding, there's
2 no objection.

3 JUDGE ROSE: Is there any objection, Mr. Snow?

4 MR. SNOW: None.

5 JUDGE ROSE: Very well, General Counsel's Exhibit 1
6 is received.

7 (The documents, heretofore
8 marked General Counsel's
9 Exhibit 1(a) - 1(l), for
identification, were received
into evidence.)

10 JUDGE ROSE: Are there any preliminary matters
11 or motions that need to be taken up before we proceed
12 with the evidence?

13 MS. TIMMONS: Yes, Your Honor, at this time,
14 General Counsel, pursuant to the Notice of Intent
15 to amend the complaint, issued on March 7, would now
16 move to amend the complaint to -- in the following
17 respects:

18 Paragraphs presently numbered 17 through 20, we
19 move to renumber consecutively, such that they become
20 paragraphs 18 through 21 and the new paragraph 17
21 which is sought to be added, is to read:

22 "By the acts described above in Paragraph 16,
23 Respondent didn't convert the economic strike described
24 above in Paragraph 13 into an unfair labor practice
25 strike."

1 At this time, I make the motion to amend the com-
2 plaint in this -- in those respects.

3 JUDGE ROSE: Any objection?

4 MR. SNOW: No objection.

5 JUDGE ROSE: Very well, the amendment is received.
6 Any other preliminary matters?

7 MS. TIMMONS: Okay, it's my understanding, at this
8 time, that the parties would like to offer some Joint
9 Exhibits and certain stipulations.

10 JUDGE ROSE: Very well.

11 MS. TIMMONS: I would like to offer as Joint Exhibit
12 Number 1, a three-page document, the first page a
13 certification of representative of the Windham Community
14 Memorial Hospital Registered Nurses Unit Number 62,
15 of the Connecticut Nurses Association, the second page
16 of the document, a certification of the conduct of the
17 election held in Case Number 1-RC-13,828, wherein Unit
18 62 was certified and the third page, a tally of ballots
19 of the election held in Case Number 1-RC-13,828.

20 MR. SNOW: This is Joint --

21 JUDGE ROSE: This is Joint 1. Any objections?

22 MR. SNOW: No objections.

23 JUDGE ROSE: Very well, Joint Exhibit 1 is
24 received into evidence at this time.

25 MS. TIMMONS: Fine.

(The document, above-referred to, was marked Joint Exhibit Number 1, for identification, and was received into evidence.)

MS. TIMMONS: I would further offer, as Joint Exhibit Number 2, a four-page document. The first two pages of this document -- the first two pages of this document contains the names of 72 employees, who were employed in the appropriate unit on April 20th, 1976, and, further, indicates once that employee returned to work, was permanently replaced by the hospital, resigned his employment, and abandoned that employment. Where there was no notation on the first two pages, after the employee's name, that employee did not go out on strike.

On the third page of the document, contains a list of 42 names. The parties stipulate that only those individuals who were hired before August 23rd, and who were still on the payroll as of August 23rd, 1976; it should be considered that those employees hired after August 23rd, are irrelevant to the proceeding and therefore, that page contains 32 employees who were hired as permanent replacements and who were still working at the hospital as of October 23rd, 1976.

The fourth page of that document lists those employees that came to work during the strike.

1 However, references on each of those employees who are
2 still in the employ of the hospital as of August 23rd,
3 1976. The parties stipulate that four of the employees
4 on that list who were still in the employ of the hospital
5 as of August 23, 1976, should be excluded from consideration
6 inasmuch as the employees were casual employees.
7

8 The casual employees to be excluded are: last
9 names: Shea, Clairmont, Hale, and Flynn.

10 JUDGE ROSE: That will be marked Joint Exhibit 2
11 for identification.

12 (The document, above-referred
13 to, was marked as Joint Exhibit
Number 2, for identification.)

14 MR. SNOW: I have just two comments on the stipulation,
15 which is accurate, but I'd like to elaborate
16 slightly.

17 JUDGE ROSE: Go ahead.

18 MR. SNOW: With respect to page 1, for those employees
19 at the beginning of the list, 13 in number, for whom
20 there is an entry, 'abandoned employment 9/13,' we do
21 not agree that that was the earliest date in which they
22 may have abandoned their employment. It was at least
23 by September 13, they had abandoned their employment,
24 we contend, but it may well be that for some or all of
25 them, abandonment took place at an earlier date.

1 JUDGE ROSE: Very well.

2 MR. SNOW: With respect to the -- page 3 of the
3 list, the 42 nurses of whom ten were hired on 9 --
4 started work on 9/13/76. We agree that their presence
5 on the list is irrelevant, only if the demand for
6 bargaining, which is at issue here, is limited as Coun-
7 sel for the General Counsel has told me it is, to the
8 August 23rd date.

9 In other words, if that date turns out not to have
10 been the date in which -- a date in which bargaining was
11 demanded, if the General Counsel falls back on some
12 later date, then these dates may become relevant.

13 She has, however, told me that, indeed, her case
14 does rest on the August 23rd demand-- alleged demand
15 for bargaining.

16 So, with those two qualifications, we stipulate
17 to the entry of the list.

18 JUDGE ROSE: Very well, Joint Exhibit 2, along
19 with your explanation -- as given by Counsel -- is
20 received into evidence.

21 (The document, heretofore mark-
22 ed Joint Exhibit Number 2, for
23 identification, was received
into evidence.)

24 MS. TIMMONS: General Counsel has no further
25 preliminary matters at this time.

1 JUDGE ROSE: Mr. Snow?

2 MR. SNOW: We have nothing at this time.

3 JUDGE ROSE: Okay.

4 MS. TIMMONS: Could I make an opening state-
5 ment?

6 JUDGE ROSE: Please do.

7 MS. TIMMONS: The complaint, in this matter, alleges
8 that on or about August 23rd, 1976, Windham Community
9 Memorial Hospital violated Section 8(a)(5) of the Act,
10 by refusing to recognize negotiated bargaining with
11 Unit 62 of the Union certified herein.

12 Respondent admits that since August 23rd, it has
13 refused to bargain with -- that it has not bargained
14 with Local 62, this refusal to bargain was just eight
15 days after the union certification year ran up. Having
16 been certified on August 15th, 1975.

17 However, while recognition was not withdrawn until
18 August 23rd, 1976, it seems clear from Respondent's
19 answer to the complaint, in which it contends that the
20 union was only the majority representatives of Windham
21 employees until April 24th, 1976, the first day in which
22 the strike occurred.

23 But, Respondent was just biding its time until the
24 end of the certification year, in order to withdraw
25 recognition. This is especially clear, inasmuch as

1 on August -- on April 21st, 1976, the day of the strike,
2 the union clearly represented a majority of employees
3 in the appropriate unit, inasmuch as 57 out of the 72
4 employees in the unit went out on strike, and, therefore,
5 clearly supported the union.

6 And, also, the strike -- therefore, any and all
7 objective considerations offered by the Respondent
8 in this matter and in any good faith assertion put forth
9 must be considered in light of what General Counsel
10 considers to be a design and plan, to repudiate the
11 union, which plan and design was formulated in April of
12 1976.

13 JUDGE ROSE: Anything further, Ms. Timmons?

14 MS. TIMMONS: No.

15 JUDGE ROSE: Would you care to make an opening
16 statement, Mr. Snow?

17 MR. SNOW: Yes, I would, in light of that opening
18 statement.

19 JUDGE ROSE: Okay. Proceed.

20 MR. SNOW: I prepared the answer, trying to be as
21 precise as I could be, and, while the hospital did not,
22 indeed -- I think testimony would show that they did not,
23 indeed, consider on April 21st, or anytime thereafter,
24 whether or not the union represented a majority, when
25 it comes to admitting or denying factual allegations to

1 deny that there was a majority after April 21st, I think
2 should not be construed as any kind of an indication of
3 a scheme or a plot or a plan. We're not charging with
4 refusal to bargain in good faith. With the emphasis on
5 the good faith. This is not a case where it's claimed
6 that the Employer is engaged in sham bargaining or
7 that it did not really wish to reach an agreement.

8 This, as the evidence will show -- and, indeed,
9 the pleadings show, extensive negotiations took place.
10 Every effort was made, I think, on both sides to avoid
11 a strike, but those efforts were unsuccessful. And
12 that considerable negotiations went on after the strike
13 started. And the hospital was always willing to meet
14 and negotiate. The fact is, after June 7th or 8th,
15 there was no request for any bargaining until after
16 August 23rd, when a conditional request was made, and
17 I think the testimony that we'll present will show that
18 in the time from April 23rd to August 23rd, many events
19 happened, which caused the Employer to begin to doubt
20 the majority, and that, indeed, the conditional offer
21 -- the conditional request to bargain on August 23rd
22 was, itself, an indication that the union no longer
23 represented a majority.

24 But I think it should be made clear that this is
25 not a case of bargaining in bad faith, but rather a case

1 of a refusal to bargain, or a failure to bargain, and
2 the question is, "Was there an obligation at that time
3 to bargain?"

4 JUDGE ROSE: Mr. Snow, I note in your answer you
5 deny that the union is a labor organization within the
6 meaning of Section 25 of the Act.

7 MR. SNOW: Yes.

8 JUDGE ROSE: Is that a serious issue in this
9 case?

10 MR. SNOW: Yes, it is. This -- if I can just
11 explain without this being actual testimony --

12 JUDGE ROSE: Yes.

13 MR. SNOW: On September 1st, a dramatic change
14 occurred in the Connecticut Nurses' Association's
15 Labor Relation Program, and while I can only describe
16 how it appeared to an outsider, really, that the
17 Labor Relations Staff of CNA resigned and formed a
18 competing organization. There are several cases still
19 pending, in which the question of change in affiliation
20 or representation in various hospitals throughout the
21 state occurred.

22 More significantly, however, this union -- this
23 unit that was certified, was unit 62, the local unit
24 there and we claim that that unit appears to have become
25 defunct. And, indeed, at the time, the charge was filed,

1 it was filed by a person called Melody Treadwell, an
2 employee of CNA. CNA is not the certified bargaining
3 agent here. It's a local unit, and there's a real dis-
4 tinction between a local unit and the state-wide organiza-
5 tion. It's true that as a part of its' title, it uses
6 the words Connecticut Nurses' Association, but there is a
7 local unit and we question the authority of Melody
8 Treadwell to sign the charge on behalf of CNA or on
9 behalf of the Unit, we can question the continued
10 existence of the unit. At that time, the time the
11 charge was filed, and any subsequent time. I think
12 there's a serious question as to the existence of CNA.
13 And we had previously dealt with, of course, -- on August
14 -- prior to September 1st, with the old staff. After
15 September 1st, a lawyer called up, totally unrelated
16 to CNA, as far as we know. Claiming to represent the
17 local union.

18 JUDGE ROSE: Well, aside from these factors, the
19 issue is whether or not the Respondent has withdrawn
20 recognition or refused to bargain with Local 62, is that
21 correct?

22 MS. TIMMONS: That's correct.

23 JUDGE ROSE: And the issue here, is whether or not
24 Local 62 is a labor organization in the meaning of
25 Section 2.5 of the Act?

1 MR. SNOW: Is, was, when?

2 JUDGE ROSE: Was and is.

3 MR. SNOW: Okay.

4 JUDGE ROSE: And you're saying that it is, it is not?

5 MR. SNOW: We have no knowledge -- we deny it.

6 JUDGE ROSE: Okay, very well -- then General Counsel --
7 do you want to proceed, Ms. Timmons?

8 MS. TIMMONS: Yes, I call Mary Lou Millar to the
9 stand.

10 JUDGE ROSE: Raise your right hand.

11 Whereupon,

12 MARY LOU MILLAR

13 was called as a witness by and on behalf of the General
14 Counsel, and, having been first duly sworn, was examined
15 and testified as follows:

16 JUDGE ROSE: Please be seated.

17 DIRECT EXAMINATION

18 Q (By Ms. Timmons) Would you please state your name
19 and address for the record?

20 A Mary Lou Millar, 18 Oak Dale Circle, Wallingford,
21 Conn.

22 Q Where do you presently work, Mrs. Millar?

23 A I work for the Connecticut Health Care Associa-
24 tion.

25 Q What is your current position with that organization?

1 A Executive Director.

2 Q And prior to working with Connecticut Health Care
3 Associates, did you work for the Connecticut Nurses'
4 Association?

5 A Yes.

6 Q When was that?

7 A August 13, 1973 until August 31st, 1976.

8 Q What was your position with CHA?

9 A For the first year and a half as an economic
10 security representative and for the last year and a half,
11 as the coordinator of the Economic Security Division.

12 Q And as the coordinator of the Economic Security
13 Division, can you tell us what your duties were?

14 A Yes, the Economic Security Division was the
15 collective bargaining division of the Connecticut Nurses
16 Association and in my capacity as coordinator, I organ-
17 ized employees, negotiated contracts, helped adjust
18 grievances, etc.

19 Q During the time that you were coordinator of the
20 Economic Security Division, were you involved in any way
21 with the organization of employees at Windham Hospital?

22 A Yes, I was.

23 Q And can you tell us what your involvement was
24 there?

25 A I was involved in some of the organizing at Windham

1 Community Hospital. A field representative, Elizabeth
2 Gilbertson, had been assigned there. But I also worked
3 with organizing them.

4 Q Was a local unit formed at Windham?

5 A Yes, the Connecticut Nurses' Association had a local
6 bargaining unit and a local unit would be established
7 and a public health department, a visiting nurse associa-
8 tion, a Board of Education or a hospital. This unit
9 normally would call in the Economic Security Staff of
10 the Connecticut Nurses Association to question us about
11 collective bargaining.

12 Q During the initial stages of Unit 62's organizing,
13 was it necessary for the unit to meet any requirements
14 of CNA, in order to come in to existence?

15 A No. The local bargaining unit established its own
16 by-laws in order to govern its day-to-day operations and
17 elected its own officers according to those by-laws.
18 The Connecticut Nurses' Association's Economic Security
19 Division assisted them in the mechanics of being involved
20 in collective bargaining as an autonomous local unit.

21 Q And, to your knowledge, did Unit 62 develop by-
22 laws?

23 A Yes.

24 Q How do you know that?

25 A From minutes that were taken of the meeting, where

1 the by-laws were adopted.

2 Q Were those minutes --

3 MR. SNOW: I'm going to object. I'm sorry, and
4 I ask that that be stricken. I didn't realize that
5 this was going to be hearsay according to minutes.

6 JUDGE ROSE: Sustained.

7 Q (By Ms. Timmons) Were by-laws from Unit 62
8 subsequently submitted to CNA?

9 A Yes, they were.

10 Q I show you, Mrs. Miller, what's been marked as
11 General Counsel's Exhibit Number 2 for identification.

12 JUDGE ROSE: Yes, that will be marked General Coun-
13 sel's 2 for identification.

14 (The document, above-referred to,
15 was marked General Counsels
16 Exhibit 2, for identifica-
17 tion.)

18 Q (By Ms. Timmons) Do you recognize that document,
19 Mrs. Millar?

20 A Yes, I do.

21 Q Can you tell us what it is.

22 A These are the by-laws for Local Unit 62, Connecticut
23 Nurses' Association.

24 Q How did these by-laws come in to your possession?

25 A They were drawn up by the local unit and adopted
by the unit and sent to me to have typed by my secretary,

1 and stencilled and sent back out to them.

2 MS. TIMMONS: I'd like to offer General Counsel's
3 Exhibit Number 2, for identification, into evidence.

4 JUDGE ROSE: Any objection?

5 MR. SNOW: Can I just ask one question?

6 JUDGE ROSE: Yes.

7 VOIR DIRE EXAMINATION

8 Q (By Mr. Snow) When did this take place, as nearly
9 as you can bring?

10 A In the spring of '75.

11 Q Before the election?

12 A Yes.

13 MR. SNOW: I have no objection.

14 JUDGE ROSE: GC-2 is received.

15 (The document, heretofore marked
16 General Counsel's Exhibit 2,
17 for identification, was re-
ceived into evidence.)

18 Q (By Ms. Timmons) To your knowledge, was collective
19 bargaining conducted at the local level of Unit 62?

20 A yes, it was.

21 Q Who was responsible for bargaining at that level?

22 A The local negotiating committee which was elected
23 and a CNA negotiator, advisor. Initially Miss Gilbertson
24 commenced negotiations in the early fall. In January of
25 '76, I came in to the negotiations, as a chief negotiator.

1 Q You came in at what time?

2 A January of '76.

3 Q What was your participation or your role in the
4 bargaining?

5 A My role really was to go through the mechanics of
6 obtaining the objectives and goals of the local unit.
7 They had made their proposals, which had been put in to
8 contract language by my department and I was there to
9 guide them through the collective bargaining process.
10 They, however, made all the decisions as to which pro-
11 posals would be withdrawn, etc.

12 Q Can you give us a brief synopsis of the bargaining
13 which took place with Windham during the time that
14 you participated with the Local unit?

15 A Between late January and April 20th, approximately
16 eight meetings were held. Negotiating sessions. Some
17 were held every week and we attempted to negotiate
18 the contract that was acceptable to the local unit.
19 We were unable to do so and on April 20th, the unit
20 voted to strike. An April 21st economic strike com-
21 menced.

22 Q Was there any further negotiations after this strike
23 occurred on April 21st?

24 A Yes, between that time and approximately June 9th,
25 four or five sessions were held, which were called by the

1 federal state mediators and we attempted to negotiate
2 again the things that they felt they must have in their
3 contract.

4 Q Was any agreement reached at that time?

5 A No.

6 Q At the time negotiations broke down in June, did
7 the local unit communicate to the hospital, to your knowl-
8 edge, what they felt would be necessary to resume negotia-
9 tions?

10 A Yes, they stated at the bargaining table and to the
11 federal state mediators that they did not wish to bargain
12 again until the hospital was ready to make movement.

13 Q Subsequent to that breakdown, in the meetings with
14 the federal mediators, did you make a further request
15 to bargain on behalf of the local unit?

16 A Yes, I did.

17 Q When did that occur?

18 A August 23rd.

19 Q To whom did you make the request?

20 A I called Robert Snow, the attorney for the hospital.

21 Q Can you tell us as closely as you remember what you
22 said at that time?

23 A I told Mr. Snow that the local unit was ready to
24 go to the bargaining table and I indicated to him at that
25 time, the areas where I felt they were ready to make

1 movement.

2 Q Can you tell us what you said to him in terms of
3 movement?

4 A I can't be specific. I don't have notes on it,
5 but from my memory, I believe I indicated that the unit
6 would be willing to accept the wage proposal offered by
7 the hospital. A multiple year contract with a wage
8 reopener. And that's all that I recall.

9 Q What had prompted you to make that communication
10 to Mr. Snow?

11 A Two weeks prior to that, the local unit had met
12 and decided that they wished to go back to the bargaining
13 unit and asked me to notify the hospital of that.

14 Q That they wished to go back --

15 A To the bargaining table.

16 Q I see.

17 A I attempted to call Mr. Snow, the week, I believe
18 it's August 9th. I was to be on vacation but I was home
19 ill and I did call several times. He was not in, how-
20 ever.

21 Q During the conversation you had with Mr. Snow,
22 what, if any, was his response to your request to
23 bargain?

24 A He stated that he would relay my message to the
25 hospital and would let me know.

1 Q Did Mr. Snow, in fact, get back to you?

2 A I believe we did not speak again until late in the
3 week, when we were negotiating at another hospital.

4 Q Subsequent to August 23rd?

5 A Yes.

6 Q When did you first learn that the hospital had
7 withdrawn recognition from Unit 62?

8 A Within 15, 20, maybe 30 minutes of my telephone
9 conversation with Mr. Snow, a newspaper reporter, and
10 I believe a radio station called to tell me that the
11 hospital had issued a public statement that day to the
12 news media stating that they would no longer bargain.

13 MR. SNOW: Object to that as hearsay.

14 JUDGE ROSE: Sustained.

15 Q (By Ms. Timmons) During your phone call with Mr.
16 Snow, was there any indication that the hospital had
17 contemplated withdrawing recognition at that time?

18 A No.

19 MS. TIMMONS: I have no further questions.

20 JUDGE ROSE: Mr. Snow.

21 MS. TIMMONS: Well, I have one question.

22 JUDGE ROSE: Okay. Proceed.

23 Q (By Ms. Timmons) Subsequent to -- after August 23rd,
24 did you ever meet with Unit 62 again?

25 A Yes, I did.

1 Q When was that?

2 A Friday of that week.

3 Q With whom did you meet?

4 A With local unit members, officers.

5 Q What was the purpose of the meeting?

6 A To discuss where they were at, since the hospital
7 had refused to bargain with them.

8 MS. TIMMONS: I have no further questions.

9 CROSS EXAMINATION

10 Q (by Mr. Snow) Is that the last meeting with the
11 unit?

12 A Yes.

13 Q Did you ever meet with them to discuss CHCA affilia-
14 tion?

15 A That was discussed that day also.

16 Q What day was that? Was the 23rd a Monday?

17 A Yes.

18 Q That would be the 27th, then?

19 A Yes.

20 Q Of August?

21 A Yes.

22 Q How many people did you meet with on that occa-
23 sion?

24 A There were quite a large number of people there.
25 I would guesstimate 45 or 50.

1 Q Did you subsequently have a change of affiliation
2 with that unit?

3 A I don't know.

4 Q Did you call my office back on the 23rd and leave a
5 message for me?

6 A I may have, I don't recall.

7 Q And in the time from August 9th until August 23rd,
8 when you said you were trying to reach me, did you ever
9 leave a message for me to call you back?

10 A I may not have, because I was quite ill. I was in a
11 lot of pain, a back problem.

12 Q Did you ever ask for Laura Ford on those occasions?

13 A I may have.

14 Q You knew Laura Ford was a lawyer in the office?

15 A Yes, I did.

16 Q That had been to bargaining sessions from time to
17 time or near the end of bargaining at least?

18 A At the end.

19 Q Do you recall stating at the beginning of our
20 conversation that the conversation was confidential in
21 nature?

22 A Where we discussed the areas the unit might be
23 willing to make movement?

24 Q Yes.

25 A I don't know.

1 Q Do you recall discussing the number of full-time
2 and part-time employees who wanted their jobs back?

3 A No, but I think I might have stated that the
4 number of employees wishing to come back immediately
5 might be lower than had been anticipated.

6 Q A half dozen or so bargaining sessions before that
7 time were called by the mediators, weren't they?

8 A Yes.

9 Q And like all the ones after the strike were called
10 by the mediators, I think except that -- perhaps the
11 first one which occurred a day or two after the strike,
12 is that right?

13 A That's correct.

14 Q And prior to that time, bargaining sessions had
15 been arranged at the end of one session, and a date
16 was set for the next bargaining sessions?

17 A Yes.

18 Q So that your calling me to talk about bargaining
19 was unusual for, at least, the Windham bargaining rela-
20 tionship, was it not?

21 A Yes, it was very unusual, because it indicated that
22 the unit was willing to make movement, particularly in
23 view of the very strong statement prior to that.

24 Q And you don't recall telling me that 11 part-timers
25 and 12 full-timers wanted their jobs back?

1 A No.

2 Q Do you recall telling me that the union president
3 did not want her job back?

4 A No.

5 Do you recall telling me that her father was a pa-
6 tient in the hospital?

7 A No.

8 Q Was there some confusion about the strike vote on
9 the evening of April 20th?

10 A No, not confusion.

11 Q Did you not leave the meeting and go out and announce
12 at the meeting that there would not be a strike?

13 A Yes, there was one strike vote taken. It was
14 decided not to strike. And as I was making that announce-
15 ment, the unit was meeting inside and decided that they
16 would strike.

17 Q Do you know that Channel 13 in Hartford, on the 11
18 o'clock news, had a statement that there would be no
19 strike at Windham Hospital, quoting your announcement
20 to the press?

21 A I presume so.

22 Q When, to your knowledge, was the last time that
23 pickets were on the scene at Windham Hospital? Your
24 personal knowledge.

25 A August.

1 Q In August?

2 A Yes.

3 Q Were you there?

4 A No, I wasn't there. I was told by my field repre-
5 sentative there.

6 MR. SNOW: I move that that be stricken.

7 JUDGE ROSE: It's stricken.

8 Q (By Mr. Snow) When did you, yourself, last see
9 pickets at the entrances around the hospital?

10 A June.

11 MR. SNOW: I have no further questions.

12 JUDGE ROSE: Redirect?

13 REDIRECT EXAMINATION

14 Q (By Ms. Timmons) How often did you go up to
15 observe the picket line at Windham?

16 A I didn't. I had a field representative assigned
17 there.

18 MS. TIMMONS: No further questions.

19 JUDGE ROSE: Okay, you're excused.

20 (The witness was excused.)

21 JUDGE ROSE: Call your next witness.

22 MS. TIMMONS: General Counsel now rests on the
23 presumption of the majority, Your Honor.

24 JUDGE ROSE: Have you proved Local 62 is a labor
25 organization as of August 23, 1976.

1 MS. TIMMONS: To the best of our ability, Your
2 Honor. We believe that the -- Mrs. Millar's testimony
3 stating that she was contacted by the unit in early
4 August, as to make demands upon the Employer to resume
5 negotiations and then her further meeting with the unit
6 on August 27, shows that at least as of that date, the
7 unit was still viable, and that, if, in fact, the
8 Employer, at this time, contends that the unit is
9 defunct and no longer in existence, General Counsel would
10 argue that the reason for that is the Employer's
11 unfair labor practices and not lack of interest on the
12 part of the union.

13 JUDGE ROSE: Very well.

14 Mr. Snow.

15 MR. SNOW: I don't know whether a motion to dismiss
16 is part of the NLRB proceeding, but if there is, I'd
17 like to make it on the grounds that the General Counsel
18 has failed to sustain the allegations of the complaint,
19 that the charge was filed by the union on October 4th,
20 '76 has been denied and there's been no evidence as to
21 that. It is denied that Unit 62 is a labor organization.
22 On the basis of both of those points, we feel that the
23 -- that the General Counsel has failed to make out a
24 case.

25 JUDGE ROSE: Well, I'm going to deny your motion to

1 dismiss. With regard to the filing of the charge, it
2 really doesn't make too much difference who files the
3 charge. All the charge does is start the Board's
4 investigatory process. The issues before me for deci-
5 sion are framed by the complaint. With regard to the
6 question of whether or not Local 62 is, in fact, a labor
7 organization within the meaning of the Act, I note that
8 it was certified as such, and as a majority representa-
9 tive of the employees in the unit and I should think
10 that its continued existence as a labor organization
11 within the meaning of Section 2.5, is presumed absent
12 some evidence to the contrary. So your motion to
13 dismiss is denied.

14 Do you want to proceed?

15 MR. SNOW: Could we have five minutes?

16 JUDGE ROSE: Yes, we'll be in recess for five
17 minutes.

18 Off the record.

19 (Whereupon, a brief recess was taken.)

20 JUDGE ROSE: Back on the record.

21 Proceed, Mr. Snow.

22 MR. SNOW: I am going to be the next witness
23 myself.

24 JUDGE ROSE: Okay, raise your right hand,
25 please.

1 Whereupon,

2 ROBERT B. SNOW, JR.

3 was called as a witness by and on behalf of the Respon-
4 dent, and having been first duly sworn, was examined
5 and testified as follows:

6 JUDGE ROSE: Please be seated. State your name
7 and address for the record?

8 THE WITNESS: Robert B. Snow, Jr., 297 Neck Road,
9 Madison.

10 DIRECT EXAMINATION

11 I have been counsel for the Employer in this matter
12 since the beginning of bargaining. I am the chief
13 spokesperson for the Employer during the bargaining.
14 Which first were conducted with Betsy Gilbertson as
15 the CNA representative and subsequently by Mary Lou
16 Millar.

17 We had many bargaining sessions. We resolved
18 many of the issues between us. We had language agreed
19 upon on some thirty odd pages of the contract, but
20 there were significant issues dividing the parties up to
21 April, when the strike was called. We had the assis-
22 tance of State and Federal mediators. For much of the
23 time in the spring as I recall.

24 And then after the strike, we had the chairman of
25 the state board of mediation and arbitration join

1 the state mediator and the federal mediator in several
2 bargaining sessions.

3 The hospital had advised the bargaining unit
4 at some time that it would feel obliged to hire replace-
5 ments for those employees who went out on strike, and,
6 indeed, the hospital did start hiring replacements.

7 During the last stages of the bargaining meetings
8 one of the major issues was one that had not existed
9 prior to the strike, and that was providing immediate
10 employment for a number of bargaining unit members and
11 the hospital made several proposals to the effect that
12 at different times, and this would be in May and June,
13 it would take x-employees back fairly quickly and
14 y-employees, another number, by a certain date, and the
15 rest would have to depend on attrition and turnover,
16 and the need for services and the number of employees
17 who would be returning, was one of the issues in the
18 post-strike negotiations.

19 After the bargaining session of June 7th or 8th,
20 or thereabouts, where no progress was made, really on
21 any of the major issues, which were basically the wages
22 of the nurse and the reinstatement of employees, there
23 were no bargaining sessions called. The mediators who
24 had called the -- most, if not all, of the post-strike
25 meetings, when they felt that it was desirable to do so,

1 did not call for any bargaining sessions. And the
2 union called for no bargaining sessions.

3 On August 23rd, 1976, I received a call from Mary
4 Lou Millar who had been the spokesperson for the union
5 since the turn of the year, this was unusual. She had
6 not, to my knowledge, called previously to talk about
7 negotiating sessions. The mediators had done it all.
8 When the mediators weren't present, the parties arranged
9 negotiating sessions. At the conclusion of one, the
10 date would be set for the next one.

11 She stated that she was calling me on a confiden-
12 tial basis. That the unit -- the employees had wanted
13 some change and that if the hospital could take back
14 11 part-time employees and 12 full-time employees, that
15 the -- your unit was interested in negotiating.

16 She said that this would not include -- Erda
17 Koehn, who had been the president of the unit.

18 MS. TIMMONS: Could I just interrupt and ask Mr.
19 Snow what notes he is referring to?

20 MR. SNOW: Yes, the copies of the notes that I made
21 on that occasion, I'm using to refresh my recollection,
22 and which I intend to offer in to evidence.

23 JUDGE ROSE: Any objection to that?

24 MS. TIMMONS: No objection.

25 JUDGE ROSE: Very well, proceed.

1 Q (By Mr. Snow) She mentioned that -- not for any
2 legal significance, that Erda's father was, indeed, a
3 patient at the hospital. She said that if we would be
4 willing to bargain under those circumstances, the hospi-
5 tal would accept the union and would consider accepting
6 our wage proposal for the first year, which would then
7 have been 2/3 of the way through and the wage proposal
8 was effective October 1st, 1975. And would run through
9 September 30th, 1976 and she was then calling me on
10 August 23rd, 1976. And that she thought that perhaps a
11 two or three year contract would be possible -- might be
12 possible with a wage reopener effective October 1st,
13 1976.

14 And she said, "And, of course, we'll have to get
15 something to show for the strike."

16 I have my notes of that conversation.

17 MR. SNOW: I would like to offer them as Employer
18 Exhibit 1, at this time.

19 (The document, above-referred to,
20 was marked as Respondent's
21 Exhibit 1, for identifica-
tion.)

22 JUDGE ROSE: Any objection?

23 MS. TIMMONS: No objection.

24 JUDGE ROSE: Very well, Respondent's Exhibit 1
25 is received.

24
(The document, heretofore
marked Respondent's Exhibit 1,
for identification, was
received into evidence.)

1
2
3
4 Q (By Mr. Snow) It was -- certainly, it was my
5 understanding, based on the words that Mary Lou Miller
6 said to me, that only those 23 employees were interested
7 in getting their jobs back and that none of the others
8 were interested in working at Windham any longer. This
9 was, of course, four months along in the strike. There
10 had been no progress made in the negotiations. The
11 picketing which had lasted in any substantial numbers
12 for only a very brief period of time and then became
13 what I would call token picketing of one or two or per-
14 haps three people at a gate. Sometimes with signs and
15 sometimes without signs.

16 MS. TIMMONS: Could I ask you the basis for your
17 knowledge as to the sporadic picketing?

18 MR. SNOW: My observation -- well, as far as the
19 intensity of it, it was my own observation. Based
20 on several trips to Windham during June certainly. In
21 April, May, June when we had bargaining sessions, for
22 example, I would be up there. Perhaps a day or two
23 before to prepare for them. And so I made several
24 trips and saw what I would consider token picketing,
25 with just one or two people at an entrance. Very often

1 all the entrances weren't covered. It would only be
2 at the main entrance, so that there appeared to be very
3 little interest on the part of bargaining unit members.
4 A significant number had come to work during the strike
5 and we'll get in to that in more detail with the
6 testimony of other witnesses and Joint Exhibit 2.

7 And many replacements had been hired over this peri-
8 od of time.

9 I passed this information on to the hospital imme-
10 diately. I don't recall the words that I used --

11 JUDGE ROSE: Excuse me -- this information --

12 THE WITNESS: I'm sorry, the information from
13 Mary Lou Miller's telephone conversation.

14 JUDGE ROSE: I see.

15 Q (By Mr. Snow) I passed some or all of it on to the
16 hospital. She had asked that it be confidential and I
17 really did not quite know to what extent it was confi-
18 dential, but I assumed that I could, at least, use the
19 information in my conversations with the hospital,
20 although we certainly would not have publicized it to the
21 newspapers or anyone else, other than perhaps Mr.
22 Richey, at that time, but I did inquire of the hospital.
23 As to whether it had any interest in negotiating on the
24 condition that whatever the numbers are on the sheet
25 of paper, 11 part-time and 12 full-time, or vice versa,

1 wanted their jobs back and that that would be as many
2 as the hospital would be required to find work for.
3 And Mr. Richey indicated that he was not interested in
4 bargaining under those conditions and that the hospital
5 believed that the union did not represent a majority any
6 longer.

7 I went off somewhere during the day and I don't
8 know where in mid-afternoon. I got back to my office
9 and there was a message that Mary Lou had called and she
10 had stated that the hospital was refusing to bargain.

11 I tried to reach her that afternoon and was unable
12 to and since I knew that I would be seeing her at another
13 bargaining session, at another hospital, two or three
14 days later, I did not make any further efforts to reply
15 to her.

16 MR. SNOW: That's all I have.

17 JUDGE ROSE: Ms. Timmons?

18 MS. TIMMONS: Yes.

19 JUDGE ROSE: You may proceed.

20 CROSS EXAMINATION

21 Q (By Ms. Timmons) Prior to August 23rd, Mr. Snow,
22 there hadn't been a situation between the parties where
23 we hadn't -- where the union and the company either didn't
24 meet together in a negotiating session, or the federal
25 mediators were not present, is that correct?

1 A I don't want to sound like a witness, but I'd
2 like that question again.

3 Q When Mrs. Millar called you on August 23rd, you
4 indicated, in your testimony, that you thought this was
5 unusual, given that prior to that time either the media-
6 tors themselves would arrange the meeting or the parties
7 during the course of a negotiating session would set
8 up a time to meet again, is that correct?

9 A Yes.

10 Q Therefore, given that the hospital and the union
11 were not actively engaged in the negotiating sessions,
12 they could not personally set up a meeting on their
13 own for a new negotiating session, is that correct?

14 A No, Erda Koehn could easily have called the hospi-
15 tal and said, "We'd like to meet." It could have
16 happened any number of ways. The initial negotiating
17 sessions, as I recall, were indeed set up that way.
18 At least as far as the place of meeting. There was
19 some discussion there locally as to when and where they
20 would meet.

21 Q Mrs. Millar was a member of the negotiating commit-
22 tee for the unit, was she not?

23 A She had been their spokesperson at all of the
24 sessions after she replaced Betsy Gilbertson, yes.

25 Q Therefore, was it totally unusual -- strike that.

1 In the past, had you ever received telephone conversa-
2 tions, in your office, from Mrs. Millar regarding nego-
3 tiations?

4 A I don't know. I may have. Not with respect to
5 Windham certainly.

6 Q But with regard to other employers that you repre-
7 sented and that she represented?

8 A It's possible, yes.

9 Q Therefore, it wasn't totally -- strike that. As
10 closely as you can remember, your notes, Respondent's
11 #1, are literally that, just notes of certain -- 11
12 part-time, full-time who wants job back. As closely as
13 you can remember, can you, from your recollection,
14 reconstruct exactly how Mrs. Millar requested the
15 resumption of bargaining, be it absolute or conditional,
16 as you recall?

17 A That she was calling confidentially -- I'll try, as
18 best I can, to quote her now. "I'm calling you confi-
19 dentially because the unit is interested in getting
20 back to work. Only 11 full-time and 12 part-time want
21 their jobs back. Erda Koehn is not among them. In fact,
22 she's made at her father, or she's had a falling-out
23 with her father, because he is a patient right there at
24 the hospital. If the hospital is interested in
25 negotiating with the understanding that we want the jobs

1 for 23 people, we would like to negotiate. What we have
2 in mind is a two or three year contract. The wages, as
3 you've offered for the first year and wage reopener for
4 the second or third year. And, of course, we'll have
5 to get something to show for the strike." That's
6 my recollection, right now, based on the notes and my
7 memory of the conversation. It was -- that's the answer
8 to your question.

9 Q Did Mrs. Millar indicate to you that the union would
10 be unwilling to sit down and negotiate with the hospital
11 until such time as the hospital rehired those 23 indi-
12 viduals?

13 A That was the clear implication of what she said
14 because the prior -- the last negotiations we had back
15 in June, there were absolute demands on the part of the
16 union, that all employees get back to their jobs and
17 then they did entertain our proposals of staggering them
18 over a period of time, but the union's position was that
19 everyone must be reinstated to their job immediately,
20 which, of course, would have required, under the hospital's
21 needs, it would have required dismissing replacements,
22 for example, which it had no obligation to do, and indeed,
23 some claim could be made that the union failed to represent
24 those employees who, then, were in its bargaining unit
25 at that time.

1 But, the clear implication was that the same union
2 that had said, "Look we're not going to meet after
3 June" as Mrs. Millar has testified, "we're not going to
4 meet until the hospital is ready to move on this,"
5 and in August they said, "If 23 people can have their
6 jobs back and that's all that want them back and it's
7 not Erda Koehn," and so forth, and "If 23 people can
8 have their jobs back, we will meet." She did not say,
9 "We will not meet," those words did not come out, but
10 to me, under the circumstances, that was the clear
11 implication, that unless we could give her assurance
12 that 23 people would get their jobs back, there was no
13 point in meeting and they didn't want to meet.

14 Q When you talked with Mrs. Millar, on that date,
15 did she indicate to you that the unit was willing to
16 make moves on various proposals, that you had previously
17 discussed?

18 A I recall only those items that I made notes of.
19 I think, for example, if she had said, "We're willing
20 to drop the role of the nurse," I think I would have
21 made a note of, they're willing to drop the role of the
22 nurse, because that was a major issue in the whole thing.
23 I didn't know, of course, what she meant by, "We have
24 to get something to show by the strike." My conclusion,
25 that I drew from that was that there would have to be

1 something on the role of the nurse, and we had made
2 several proposals along those lines in prior negotia-
3 tions. I assume that something there would be involved.
4 With the money she was indicating, we probably could
5 resolve on the basis of the wage offer for the first
6 year and reopen for the second or third. And we would,
7 of course, go in to immediate negotiations. I do recall
8 now some discussion where we would have to start nego-
9 tiating immediately for the second and third year and
10 -- since this was August and the first year would end
11 on September 30th. And she agreed. That we would want
12 to start negotiating the wages for the second and third
13 year under the reopener very quickly if we couldn't
14 resolve it on the basis that she suggested.

15 Q So, in fact, these items that you took in your notes
16 from your conversations with Mrs. Millar, on the two or
17 three year contract or the wage reopener, did, in fact,
18 show movement on the part of the local unit, is that
19 correct?

20 A There's no question about that. The accepting of
21 the wage offer for the first year showed movement. The
22 fact that only 23 wanted to come back to work, showed
23 movement. We've been talking 35 or 40 as I recall.
24 Back in June. Maybe even initially there were probably
25 close to 50, but I think it was 35 or 40, had been the

1 last number that had ever come out of our discussions
2 and now there it was, it's only 23. And as a bonus,
3 it doesn't include Erda.

4 Q Did she, in fact, say that it was only 23 that
5 wanted to go back or that 23 wanted to go back at that
6 time?

7 A My understanding of her position was that 23
8 -- I don't know whether she said only 23 want their jobs
9 back, but, again, in the context in which it was offered,
10 she said 23 wanted their jobs back and she said nothing
11 to me to suggest that there were more, but they could
12 wait. There was no suggestion that this was immediate
13 and more could come back at some later time.

14 Q Did you observe the picketing at Windham at all
15 during July and August of 1976?

16 A I was out there some in August and I saw no picket-
17 ing. I was out there, I believe, in the latter part
18 of July. I was on vacation from -- around the 18th
19 -- 17th or 18th of June until the 13th or 14th of July,
20 basically the last two weeks of June and the first
21 two weeks of July, I wasn't out there. I did observe
22 the picketing in April and May and in June, and there
23 were times in June when I was out there, that there
24 were no pickets.

25 Q During your conversation with Mr. Richey on August

1 23rd, after you talked with Mrs. Millar, did Mr. Richey
2 inform you that he intended to withdraw recognition
3 from the local unit?

4 A Well, the gist of our conversation informed me,
5 when he stated that he was unwilling to meet with the
6 union under those conditions. Suggested to me that --
7 I don't know whether it went beyond that. It was just
8 that he was not willing to meet with those conditions
9 and I know that they had entertained serious doubts
10 prior to that time, as to the continuing majority be-
11 cause of the apparent lack of interest in the union and
12 the settlement. I don't know -- on August 23rd.

13 Q Was your first firm knowledge that the hospital
14 had withdrawn recognition from the union in fact the
15 telephone message from Mrs. Millar?

16 A Yes, I think it was.

17 MS. TIMMONS: I have no further questions.

18 MR. SNOW: I have just one little bit.

19 REDIRECT EXAMINATION

20 Q (By Mr. Snow) The unusual part of her calling me,
21 was, first of all, saying that it was confidential.
22 I don't recall -- I'm certain that in my other dealings
23 with Mrs. Millar that she had never found it necessary
24 to say that this was confidential.

25 Remembering, too, that after 4 months of strike,

1 the convention is that neither party likes to call to
2 request a bargaining session. In my experience, at
3 least, it almost always comes from the mediators, be-
4 cause neither one wants to appear to the newspapers or
5 to anyone else, as showing a position of weakness, or
6 losing face or anything like that.

7 The fact that she did not go to the mediators,
8 particularly to the two regular -- the state mediators --
9 I think it was Jim Donnelly and the federal, Tom Carroll,
10 who Mrs. Millar was very familiar with, and knew how
11 to reach very easily, the fact that she did not go
12 through them and ask them to please call a meeting,
13 was significant, in my mind. This was quite unusual,
14 and to me, it was not a demand for bargaining, not a
15 statement, "We'd like to meet," but rather, "Would you be
16 willing, under these conditions." It was a preliminary
17 inquiry, not a request or a demand for bargaining.
18 In my view, based on my experience in these situations.

19 JUDGE ROSE: Anything further?

20 MS. TIMMONS: Yes.

21 JUDGE ROSE: Proceed.

22 RECROSS EXAMINATION

23 Q (By Ms. Timmons) Going back, you testified earlier
24 that you had frequent contacts or that you had worked
25 with Mrs. Millar quite frequently in the past, is that

1 correct?

2 A I had up until and following her leaving CNA
3 and association with CHCA and it has been much less
4 since that time, primarily because the representation
5 and -- amendment proceedings, the change of affiliation
6 proceedings, have prevented anything -- we have election
7 schedule at the other two hospitals for April 14th. So
8 that necessarily, since, oh, maybe, September probably,
9 I have had very little contact with Mrs. Millar.
10 Prior to that time, we had negotiated a contract at
11 one other hospital. We were in negotiations at that
12 time, at a second hospital, and so, yes, I had had frequent
13 contact with her, in the normal course of setting up
14 meetings and negotiating and grievances at the hospital,
15 where we had a contract.

16 Q And for the most part, you had pretty good rapport
17 with her, did you not?

18 A I thought so.

19 Q When she said that -- you mentioned that she said
20 something was confidential.

21 A Yes.

22 Q Did she say the conversation was confidential or
23 the proposals that she was telling you, she felt that
24 the unit could move on were confidential?

25 A I really can't be sure. I thought it was the whole

1 conversation and I thought she was asking me to get
2 in touch with the hospital and to inquire, "Would you
3 be interested in negotiating?" If the union only needed
4 to have 23 people come back to work immediately and would
5 you be interested in this? Now, that was my understand-
6 ing of what she was asking me to do and it was unusual,
7 but the situation was unusual. We were four months in to
8 a strike and I felt that it was unusual, but it did not
9 surprise me that she would ask me to make this prelim-
10 inary inquiry.

11 MS. TIMMONS: I have no further questions.

12 MR. SNOW: Nothing further.

13 JUDGE ROSE: You're excused.

14 (The witness was excused.)

15 JUDGE ROSE: Off the record at this time.

16 (Whereupon a brief recess was taken.)

17 JUDGE ROSE: Back on the record.

18 MR. SNOW: I would like to call Mr. Ritchie to the
19 stand.

20 JUDGE ROSE: Would you stand and raise your right
21 hand?

22 Whereupon,

23 FRANK E. RITCHIE

24 was called as a witness by and on behalf of the Respon-
25 dent, and, having been first duly sworn, was examined

1 and testified as follows:

2 DIRECT EXAMINATION

3 Q (By Mr. Snow) What is your name?

4 A My name is Frank Ritchie. I'm the Administrator
5 of the Windham Community Memorial Hospital.

6 Q How long have you been the administrator?

7 A Since September, 1975. I have been connected
8 with the hospital since March of 1960, as assistant
9 administrator and associate administrator.

10 Q Were you involved in the collective bargaining
11 negoti ons that took place -- the whole election
12 process and the collective bargaining negotiations that
13 took place with Unit 62?

14 A I was not directly involved in the bargaining ses-
15 sions, but I had pre-meeting with the bargaining group
16 and post-meetings with the bargaining group.

17 Q And so you were kept advised of the progress of
18 negotiations?

19 A Yes.

20 Q Did there come a time when there appeared that a
21 strike might occur at the hospital?

22 A Yes. We reached an impasse and could not seem to
23 resolve them.

24 Q Did you know that there was confusion over the
25 strike vote on the night of April 20th?

1 MS. TIMMONS: Objection.

2 JUDGE ROSE: Sustained.

3 Q (By Mr. Snow) What did you learn of the strike vote
4 on the night of April 20th?

5 A I was told I would receive a call from Mrs. Millar
6 about the strike vote approximately 11 o'clock. And I
7 came home from the hospital and I turned on the news and
8 I was waiting for the phone call and then I saw on
9 Channel 3, they announced that the strike vote then
10 had been turned down and I kept waiting and waiting
11 for the call. And I think between 11 and quarter to
12 twelve I called the strike headquarters and I asked
13 to speak to Mrs. Millar and inquired as to why I had
14 not received a call and at that point, she informed me
15 that a second vote had been taken and that the unit
16 had voted to go on strike.

17 Q Were there some employees who did not strike at
18 all?

19 A Yes. Approximately 20 to 22 came to work.

20 Q Did the hospital start hiring replacements for the
21 nurses who were on strike?

22 A Yes, when negotiations seemed to get bogged down,
23 we had the responsibility to continue patient care.

24 At that point, I informed my bargaining team that they
25 would have to tell Unit 62 that we would have to begin

1 a program of replacing the nurses who were out on
2 strike. Which we did. We placed ads in newspapers.

3 Q What did you observe with respect to picketing
4 from the beginning of the strike onward?

5 A When the strike started, I came to the hospital
6 every single day of the week. 7 days a week. If it was
7 a normal workday, I would be there during that day and
8 then in the evening I came back every single evening
9 for many, many months. And I made rounds in the hospi-
10 tal.

11 In the beginning, I would say the picketing was
12 very intense and then later in June, I began to notice
13 that there would be occasions when there were not strikers
14 on both entrances to the hospital. The numbers of
15 people on the strike line were less and then there would
16 be days when there would be no strikers. Somewhere around
17 July 2nd, or 3rd, there was a notice in the paper that
18 the strikes would only be at shift change and I think this
19 is when the picket line began to break down. There were
20 many, many times when there would be whole shifts miss-
21 ing. And, then somewhere in August, there was an announce-
22 ment that the strike or picketing would be discontinued
23 altogether.

24 Q During this period of time, did some strikers return
25 to work?

1 A Yes. We -- in fact, we had sent letters to all the
2 members of the unit asking them if they would like to
3 return to work.

4 Q Do you remember when you sent the letter?

5 A No.

6 Q Do you know whether it was May or June or July?

7 A We sent several. We would send them before we
8 started the advertising campaign to recruit nurses,
9 because we felt we owed it to these people who were very
10 loyal to the hospital.

11 Q Do you know how many returned to work?

12 A No.

13 Q Other than the picketing, did you observe any signs
14 of union activity of any kind during June and July and
15 August, prior to the 23rd?

16 A Did I have contact?

17 Q Did anyone from the union call you about the union
18 or negotiations? Was there any response of any kind
19 from the union?

20 A The only thing was we received a -- I think from
21 your office an inquiry about an attorney representing
22 the union and wanting to bring a certain number of people
23 back full-time.

24 Q I think that was in September after the hospital
25 had declined to bargain --

1 A After our last negotiations session, I had no
2 contact except where people were picketing. I had no
3 communications from Unit 62.

4 Q Did the unit -- did Mrs. Millar on behalf of the
5 unit request vacation pay for the strikers?

6 A Yes.

7 Q Was that arranged?

8 A If the people had any holidays due them these
9 were paid and vacations were paid.

10 Q Were any charges filed against the hospital by the
11 union at any time prior to August 23rd, accusing the
12 hospital of any kind of unfair labor practice at all?

13 A I think there was one unfair labor practice filed
14 against us.

15 Q Did the union bring any?

16 A None. We would meet any time they asked us to,
17 when the state arbitrators asked us and the federal
18 mediators asked us to meet, we met. When the State
19 Board of Arbitration called us and asked us to set up a
20 series of negotiating sessions, we were more than happy
21 to meet with them.

22 Q Did any employees raise the question of certifica-
23 tion or decertification?

24 A Yes.

25 Q When did that occur?

1 A Sometime in May or June.

2 Q What response did you give to inquiries about
3 decertification?

4 A I told them I would have to give them the name of
5 the NLRB office in Boston and they would have to contact
6 that office to find out the guidelines for decertifica-
7 tion.

8 Q You did nothing to assist them beyond that?

9 A No.

10 Q What do you recall of my conversation with you on
11 August 23rd with respect to the possibility of resuming
12 negotiations?

13 A That you had a call from Mrs. Miller requesting
14 -- no, not requesting, asking about whether the hospital
15 would be interested in resuming negotiations. And I
16 asked you if this was a formal request or was this just
17 a casual inquiry and I got the inference that it was a
18 casual inquiry.

19 MS. TIMMONS: Objection.

20 JUDGE ROSE: Sustained.

21 Q (By Mr. Snow) Can you pick up now, leaving out
22 your conclusion, I guess, that it was casual, what
23 you remember of the conversation?

24 A I related that we had hired a fair number of nurses
25 and I felt that the majority of the nurses, now, were not

1 representative of the unit. That even some of the
2 nurses we had hired, inquired as to whether or not they
3 would have to join the union or become a member of the
4 unit, and I felt that we had more nurses on our payroll
5 now that were not members of the unit and I did not feel
6 that the unit truly represented the majority of our
7 staff nurses. I also recall that I said something
8 like I was very discouraged about the last 4 or 5
9 negotiation sessions and I felt that it wasn't -- that
10 we shouldn't enter in to them again, because I did not
11 want to continue on the same path.

12 Q What did you mean by that?

13 A Well, when we had the negotiation sessions with the
14 State Board of Arbitration, the first few -- when I
15 received my reports back -- I was somewhat encouraged.
16 And the last negotiations sessions, it's my understand-
17 ing that the State Board stopped the negotiations.
18 Because they felt they were going nowhere. And we had
19 these two unresolved issues that we couldn't seem to
20 resolve and I didn't feel it would be prudent to continue
21 the discussions.

22 Q On August 23rd, did you have positions available
23 for the 11 part-time and 12 full-time employees?

24 A At that time, I don't think we had 23 positions
25 open.

1 Q Had you, to your knowledge, on that date, offered
2 employment and agreed with employees who were not due
3 to report for another week or two?

4 A Yes. Some of the schools of nursing were graduating
5 and we had people coming in --

6 MR. SNOW: I have no other questions.

7 JUDGE ROSE: Cross examine.

8 CROSS EXAMINATION

9 Q (By Ms. Timmons) Mr. Ritchie, you stated that
10 you felt there was confusion on the strike vote?

11 A Yes.

12 Q When you talked to Mrs. Millar she told you clearly,
13 at that time, that the unit had voted to go on strike,
14 did she not?

15 A Yes.

16 Q And the employees -- or a substantial number of
17 employees did go out on strike the following day, did
18 they not?

19 A She told me they had taken a second vote.

20 Q But at the time that you spoke to Mrs. Millar, at
21 midnight, she told you that the vote -- that the employ-
22 ees had voted to go out on strike?

23 A Yes, and I asked her about the notice on the TV
24 program and she told me they had taken a second
25 vote.

1 Q And employees did, in fact, go out on strike on
2 April 21st?

3 A Yes.

4 Q And, therefore, any confusion that may have existed
5 in the minds of the television station or in your mind --
6 had obviously been clarified by the second vote, had it
7 not?

8 A I would say it was peer pressure maybe rather
9 than confusion.

10 Q You stated that at the beginning of the strike
11 until June, the picketing was rather intense at the
12 hospital?

13 A Yes.

14 Q And starting sometime -- when in June did you notice
15 that picketing was becoming less intense?

16 A After negotiations had broken down.

17 Q When did Mrs. Millar request vacation pay for the
18 strikers?

19 A Sometime in August.

20 Q In fact, through June, July and August -- those are
21 customary vacation months, are they not?

22 A Nursing -- well, heavy in those months. Nursing
23 department usually has their vacation spread over the
24 whole year.

25 Q. Heavier in those months?

1 A That's correct.

2 Q And, in fact, children -- most of your nurses are
3 women with small children?

4 A A fair number are.

5 Q And June, July and August is a period of time in
6 which they're out of school?

7 A Yes.

8 Q It would be a reasonable inference, would it not,
9 that the picketing at the hospital decreased as a result
10 of summer vacations and --

11 MR. SNOW: Objection.

12 JUDGE ROSE: Sustained.

13 Q (By Ms. Timmons) When Erta Koehn announced that
14 picketing would cease on August 6th, did she indicate
15 the reason why?

16 A She said that the people had got other jobs.
17 They were going to take the summer off. They were going
18 to have vacations.

19 Q You testified that employees raised the question
20 of certifying the unit?

21 A Yes.

22 Q How many employees questioned you about that?

23 A I had two separate employees ask me.

24 Q Who were they?

25 A I'd like to not give their name because this was

1 said in confidence.

2 Q Were they two employees who were working at the
3 hospital at that time?

4 A Yes.

5 Q And had not participated in the strike?

6 A Yes.

7 Q You also testified that you had been discouraged
8 during the last few negotiating sessions that you had
9 had with the union?

10 A That's correct.

11 Q And that you felt you were deadlocked?

12 A That's correct.

13 Q And you didn't feel there was any point in having
14 further meetings because there didn't appear to be
15 any movement?

16 A Yes.

17 Q When did you first come to the conclusion that
18 the union did not represent a majority of employees?

19 A When our staff nurses -- we had hired a fair number
20 of them and with the people that had crossed the picket
21 line, --

22 Q In point of time, as closely as you can approximate
23 when did you make the decision that, at this time, the
24 unit is no longer the major?

25 A Somewhere in -- probably mid-July, very early August.

1 Also the fact that we hadn't heard a word from -- I mean,
2 for negotiations, nothing from the union from June 9th,
3 only the request for vacation pay and things like that.

4 Q That was mid-July or early August?

5 A Yes.

6 Q Had any of the nurses who had originally gone out
7 on strike, that subsequently returned to work -- did
8 you have any conversations with them about the union?

9 A I don't recall that I did specifically.

10 Q The nurses that -- you said that some of the nurses
11 that had been hired, indicated that they weren't inter-
12 ested in being represented -- were not interested in
13 having to join the union?

14 A Yes.

15 Q Did they say that to you?

16 A This was relayed to me by the director of nursing,
17 in their interviews with the nurses.

18 Q Did any of these new replacements specifically tell
19 you that they did not want to be represented by the
20 union?

21 A I don't recall that they did.

22 MS. TIMMONS: I have no further questions.

23 JUDGE ROSE: Mr. Snow?

24 REDIRECT EXAMINATION

25 Q (By Mr. Snow) Did the announcement on the

1 termination of the picketing in any way suggest that this
2 was temporary, that it would resume?

3 A No, from the notice that I had seen in the newspa-
4 pers, I thought that the picketing was going to stop.
5 It stopped.

6 Q Permanently?

7 A Yes.

8 Q Did you know that some of the striking employees had
9 taken other jobs?

10 A Yes, because we had received reference inquiries.

11 Q With respect to the hiring of replacements, did
12 the hospital comply with the state statute that requires
13 that want ads contain a notice that the institution was
14 on strike?

15 A Yes.

16 Q So that all of the want ads contained that notifica-
17 tion?

18 A Yes.

19 Q Did you have any problems with the nursing schools
20 in your efforts to recruit replacements?

21 MS. TIDMONS: I object. This is beyond the scope
22 of direct examination.

23 MR. SNOW: I was claiming it on the grounds of the
24 testimony about the replacements not being interested in
25 the union and the circumstances under which they were

1 hired.

2 JUDGE ROSE: Very well. It may be relevant.

3 I'm not sure it's not hearsay but go ahead.

4 Q (By Mr. Snow) Did you have problems with any of
5 the nursing schools as far as the hiring of replacements
6 was concerned?

7 A I'm getting this second-hand --

8 MS. TIMMONS: Object.

9 MR. SNOW: Withdrawn.

10 I have no other questions.

11 JUDGE ROSE: Ms. Timmons, anything else?

12 RECROSS EXAMINATION

13 Q (By Ms. Timmons) You learned that some striking
14 employees had taken jobs elsewhere?

15 A Yes.

16 Q From whom did you hear that?

17 A My director of nursing service and from general
18 conversation in the hospital.

19 Q Did any employees other than the director of nurses,
20 did any of the employees contact you directly?

21 A No, but I had fellow administrators call me.

22 Q And did they indicate that the individuals seeking
23 employment --

24 A Yes.

25 Q Did they also call you back and tell you the particular

1 individual had been hired?

2 A Yes.

3 Q How many people did you receive those type of comm-
4 unications about?

5 A Probably 2 or 3.

6 Q When did you receive them?

7 A Somewhere between June, July and August.

8 Q Who were involved?

9 A I'd have to look at my records.

10 Q If I showed you a list of employees in the bargain-
11 ing unit, would that refresh your recollection?

12 A No.

13 MS. TIMMONS: No further questions.

14 MR. SNOW: Nothing further.

15 EXAMINATION

16 Q (By Judge Rose) Is it a fair statement that you
17 were the responsible person for the hospital who deter-
18 mined to withdraw recognition of the union?

19 A That decision was actually made by the Board of
20 Trustees.

21 Q When did the Board of Trustees make the decision?

22 A I'd have to go back in the minutes. Either July
23 or August.

24 Q Was the decision of the Board of Trustees to with-
25 draw recognition made prior to August 23, when Mr. Snow

1 called you concerning his conversation with --

2 A I don't recall. This was discussed at every Board
3 meeting -- we did an update at every board meeting to
4 let them know how our negotiations were going and things
5 that might be coming in the future.

6 Q Did there come a point when the Board of Trustees
7 said, "We withdraw recognition, we no longer believe that
8 the union represents a majority of our employees."

9 A I don't recall.

10 Q Did that event ever occur? Did, in fact, the hospi-
11 tal -- either you or the Board of Trustees ever, in fact,
12 withdraw recognition from the union?

13 A When Mr. Snow called me I told him that the hospital
14 would not negotiate further because we felt that they
15 did not represent a majority of the nurses.

16 Q Now, you did not make that decision?

17 A No.

18 Q But you advised the Board --

19 A Yes. This would be on my advice to the Board that
20 this course of action should be taken.

21 Q And the Board then accepted your advice?

22 A Yes.

23 Q And your advice was that the union no longer
24 represented a majority of the employees?

25 A Right.

1 Q And the reason that you felt that the union no long-
2 er represented a majority of employees was what?

3 A That we had approximately 40 new hires, new nurses
4 who were hired post-strike date, that approximately 20
5 to 25 members of the unit had terminated their employment
6 at the hospital. We had not heard or seen really what
7 I would call from the union since the early part of June.

8 Q And those were the facts upon which you based your
9 determination?

10 A Yes.

11 Q And would it be a fair statement to say that you felt
12 that primarily because either these nurses had not gone
13 on strike or had come to work after the strike started?

14 A That's correct.

15 RE CROSS EXAMINATION

16 Q (By Ms. Tillmons) Do you have copies of the Board of
17 Trustees meetings for July and August, 1976, with you?

18 A No, I do not.

19 Q Do you recall a specific time each month that the
20 Board of Trustees meets?

21 A The third Monday of the month.

22 Q And you don't recall whether or not the decision on
23 the part of the Board -- it was the decision of the
24 trustees that prompted you to withdraw recognition from
25 the union?

1 A I don't recall at this time whether a formal vote
2 was taken or not.

3 Q But it was based on your consensus of the Board of
4 Trustees that they supported your position that the
5 union no longer represented a majority?

6 A Right.

7 Q And as closely as you can remember, do you place
8 that in July or August?

9 A No, I cannot.

10 Q The third Monday of the month, in 1976, August,
11 was August 16, that was one week before the hospital
12 withdrew recognition on August --

13 A It couldn't be the 16th. Oh, yes. That's right.

14 Q Do you recall whether or not your consensus of the
15 decision of the Board of Directors was reached just a
16 week before the hospital withdrew recognition or was it
17 a longer time before that?

18 A I don't recall.

19 Q After your conversation with Mr. Snow on August
20 23rd, you subsequently had a press conference, did you
21 not?

22 A No.

23 Q Did you issue a press statement?

24 A The press called me, as I recall.

25 Q And, at that time, you informed the press that the

1 hospital was withdrawing recognition?

2 A That's correct.

3 Q Prior to -- you say that there were approximately
4 40 new hires, plus 25 unit members had quite.

5 A Yes.

6 Q Did you actually review hospital records to deter-
7 mine the exact numbers prior to your reaching your deci-
8 sion that the union no longer represented a majority of
9 employees?

10 A All during this period, we had to keep tallies
11 of our staff nurses. People coming in and people leav-
12 ing.

13 Q Did you review the records?

14 A You mean to make this decision?

15 Q Yes.

16 A I don't say I reviewed the record to make the deci-
17 sion. We reviewed the records practically every single
18 day because we were concerned about staffing the hospi-
19 tal.

20 Q You testified earlier that you, yourself, were only
21 directly contacted 2 or 3 times regarding employees who
22 had attained jobs at other places of employment?

23 A Yes.

24 Q Were you, yourself, contacted directly regarding
25 employees who had quit?

1 A No.

2 Q And so your estimate that 25 unit members had quit,
3 was based on a statement made to you by the Director
4 of Nurses?

5 A Yes.

6 Q Did you see any records that reflected the 25
7 individuals had quit?

8 A Yes.

9 Q When did you see those records?

10 A Almost on a daily or weekly basis.

11 Q At what point in time are we talking about that 25
12 people had quit?

13 A I think up to September 1. Maybe later.

14 Q So 25 wasn't necessarily the people who had quit as
15 of August 23rd when you withdrew recognition from the
16 union?

17 A I was looking for the numbers of people that crossed
18 the picket line plus new hires and that came up to be
19 well over 60 people. In fact, it was closer to 70 people
20 at that particular time, because we had some people that
21 came back to work for this period of time.

22 Q There were approximately 40 new hires, is that
23 correct?

24 A Yes.

25 Q Are we talking about the people that are listed on

1 this document, Joint Exhibit 2? Pages 3 and 4?

2 A I would have to sit down and compare these names
3 with --

4 Q This is not the record that you referred to --

5 A Right.

6 Q You had daily spread sheets that indicated people
7 had quit?

8 A Somebody wanted -- I wanted to know every new person
9 that we hired and every person that left us or terminated,
10 whether they were a member of the unit or somebody that
11 had come to work and left because, at that time, we were
12 trying to keep our nursing units open and staffed properly
13 according to the state health code. So I was very con-
14 cerned with nursing staff all during this whole period
15 and every single day we had a meeting on staffing and
16 how we were going to take care of the patients in the
17 hospital.

18 Q Did these meetings that you held daily -- did you
19 have a cumulative total -- did you have some kind of
20 chart which showed a cumulative total of individuals who
21 had quit?

22 A No, if somebody left, the director of nurses
23 told me that X-person left or somebody else came in
24 and was hired and we would come up with some new figures
25 of the number of RN's that we had working in the hospital.

1 Q So you didn't necessarily keep records of the numbers
2 who had quit --

3 A I didn't.

4 Q Did -- do you personally know whether or not Mrs.
5 Kane kept records of unit members who had quit?

6 A I know that she has records of those people.

7 Q Had you seen those records?

8 A Once a week or every two weeks, I would personally
9 have a sheet to know whether people are moving in and
10 out.

11 Q This was prior to August of 1976?

12 A Yes.

13 Q And this record that you saw would reflect --

14 A Sometimes we did our figures on the blackboard
15 because we were trying to find out what our staffing
16 patterns were.

17 Q And these figures -- would they reflect individuals
18 who quit?

19 A Yes, we would know that so many people had terminated
20 and so many people had crossed the picket line -- these
21 people would be added to it. If we had new hires, we
22 would identify new hires. If some of the new hires
23 left for some reason, we would -- at some point, we
24 would take these people out.

25 Q You were -- you felt there were more nurses than not

1 who were anti-union? Is that correct?

2 A I would have to assume they were because they came
3 to work at the hospital. These new nurses came to work
4 at the hospital.

5 MS. TIMMONS: I have no further questions.

6 REDIRECT EXAMINATION

7 Q (By Mr. Snow) These figures and sheets that you
8 are referring to -- do you know when and for what
9 purpose Joint 2 was prepared?

10 A No.

11 Q Were -- for what purpose were the others prepared?

12 A So that we would know our staffing pattern. Also
13 get some indication as to the number of new hires, the
14 number of people that crossed the picket line.

15 Q Not for the purpose of counting noses for refusing
16 to bargain?

17 A No, no. We had this responsibility to run the
18 hospital. And take care of patients. And to take care
19 of patients, we need nurses and this was of prime con-
20 cern to us all during this period. So that we would
21 have sufficient nurses to staff the units properly.

22 Q Incidentally, you also had some idea of how many
23 people were still out, how many had quit, and how many
24 had crossed and come in, and how many new hires you had
25 and so forth, is that right?

1 A That's correct.

2 Q Did you talk to some nurses who had crossed the
3 picket line? Did they talk to you about their sentiments
4 for or against the union?

5 A I don't recall that I did.

6 Q Well, you gave a statement to the NLRB investiga-
7 tor --

8 JUDGE ROSE: We'll go off the record at this time,
9 for our luncheon recess. We'll resume at 1:15 p.m.

10 (Whereupon, at 12:45 p.m., the hearing in the
11 above-entitled matter was adjourned, to reconvene at
12 1:15 p.m., at the same place.)

13 * * * * *

AFTERNOON SESSION

1:15 p.m.

JUDGE ROSE: The Hearing will be in order at this time.

MR. SNOW: I'd like to recall Mr. Ritchie to the stand.

JUDGE ROSE: For what purpose?

MR. SNOW: To correct a misstatement in his testimony.

JUDGE ROSE: Do you want to tell me about it?

MR. SNOW: Yes, the question that I asked him -- did the employees who crossed the picket line tell him about their sentiments or feelings towards the union, to which he answered, no. During our lunchtime break, I inquired of him about that. He stated he believed I was referring to those employees who had gone on strike and who had then crossed the picket line to come to work. He did not believe that I was asking about those employees who had never struck. And in my question, I was thinking of anyone who had crossed the picket line, whether they ever went on strike or did not go on strike and his answer, I think, he will testify is not true. Because he misunderstood the question.

JUDGE ROSE: Very well, you may recall him.

MR. SNOW: Mr. Ritchie, you're still under oath.

REDIRECT EXAMINATION

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Q (By Mr. Snow) When you were testifying on redirect before lunch, do you recall my asking you whether any persons who crossed the picket line had discussed with you their sentiments toward the union?

A Yes.

Q And your answer at that time was what?

A I thought you were talking about strikers, not nurses who had crossed the picket line from day 1 of the strike.

Q With respect to employees who did cross the picket line from the beginning of the strike, who did not, at any time strike, did any of them discuss with you their sentiments toward the union?

A Yes.

Q Which ones and what did they say to you?

MS. TIMMONS: I object. On cross examination, I believe that I presented a similar question to Mr. Ritchie regarding any conversations he had with any employees, regarding their union sentiments and he didn't recall any at that time. While Mr. Ritchie may have misunderstood Mr. Snow's question, at this point, to have Mr. Ritchie testify further would be to have Mr. Snow impeach his own witness.

MR. SNOW: I don't recall the question Ms. Timmons is

1 referring to. But I do think it's important and I assume
2 we're all interested in getting the facts, and if Mr.
3 Ritchie's testimony now is inconsistent in some way with
4 what he said before, I think we ought to have the benefit
5 of it regardless.

6 JUDGE ROSE: Well, what the facts are, of course,
7 is for me to find based upon my evaluation of the testi-
8 mony. You may be sure that I will take into considera-
9 tion, when reaching that judgment, the inconsistencies
10 in testimony of this witness and of others.

11 Go ahead.

12 Q (By Mr. Snow) Which non-striking employees in the
13 bargaining unit expressed to you, prior to August 23rd,
14 sentiments for or against the union?

15 A There was a nurse on maternity floor that came back
16 to work. I had several discussions with her as I made
17 my rounds. Every single day and I know, for a fact,
18 that she mailed out literature to every nurse -- I think
19 one of them was the Florence Nightingale Creed, plus
20 some other creed of nursing to all the strikers, because
21 she was very upset that nurses would go on strike and
22 leave their patients.

23 MS. TIMMONS: Objection.

24 JUDGE ROSE: Sustained. As far as the hearsay
25 aspects of it.

1 Q (By Mr. Snow) Do you know the names of any of
2 these nurses?

3 A Mrs. Neuharth who was a nurse on the first floor
4 who expressed sentiment against the union. Another
5 nurse on the coronary care unit. Who also expressed
6 sentiment against the union.

7 Q You can't recall the name?

8 A Norma Spencer was the maternity nurse and I think
9 the nurse in the Coronary Care Unit's name was either
10 Wenzel or Wayner.

11 Q I show you a d and ask you if you can tell
12 me what that document is?

13 A This is a document that I prepared when we had a
14 hearing at the hospital before the representatives of
15 the NLRB.

16 Q Would you read that over and see if that refreshes
17 your recollection -- with respect to any other employ-
18 ees?

19 A This mentions a Priscilla Donnelly who came down
20 and talked to me about being against the union. She
21 was not pro-union.

22 Q Is she one of the ones you previously referred to?

23 A Yes.

24 Q Which one was she?

25 A She was the maternity nurse. Mrs. Donnelly is an

1 intravenous therapist.

2 Q Were there others, having now read that document
3 and refreshed your recollection -- were there others
4 that spoke to you?

5 A I can't recall specific people or specific in-
6 stances.

7 Q Was your recollection in October when this statement
8 was given better than your recollection is today?

9 A My recollection is less now than it was in October.

10 MR. SNOW: I offer the statement.

11 MS. TIMMONS: No objection.

12 JUDGE ROSE: Mark this as Respondent's Exhibit 2
13 and received.

14 (The document, above-referred
15 to, was marked Respondent's
16 Exhibit 2, for identifica-
tion, and was received into
evidence.)

17 MR. SNOW: That's all I have.

18 JUDGE ROSE: Ms. Timmons.

19 RECROSS EXAMINATION

20 Q (By Ms. Timmons) You testified these individuals
21 spoke up against the union?

22 A Yes.

23 Q What specifically do you recall that they said
24 against the union?

25 A I think most of them felt that there should not have

1 been a strike.. That this was the -- the point foremost
2 in their conversations. I think they felt that --

3 Q What did they say?

4 A I don't recall. Some of them said that nurses
5 should not go out on strike. That was the general con-
6 versation.

7 Q You testified about Nurse Neuharth?

8 A Yes.

9 Q Would you review Respondent's 2 and tell me -- when
10 did she talk to you? Before or after August 23rd?

11 A I would have to say before.

12 Q Review Respondent's 2 for a moment, please.

13 A yes.

14 Q Is there anything in this statement that refers
15 to Nurse Neuharth's statement to you?

16 A Paragraph 4.

17 Q Let the record reflect that Mr. Ritchie was refer-
18 ring to Paragraph Number 4 of the statement which a
19 Board agent apparently had some problems with --

20 MS. TIMMONS: I have no further questions.

21 MR. SNOW: Nothing further.

22 JUDGE ROSE: Very well, you're excused.

23 (The witness was excused.)

24 MR. SNOW: Could we go off the record.

25 JUDGE ROSE: Off the record.

1 (Discussion had off the record.)

2 MR. SNOW: Back on the record.

3 I call Mrs. Kane to the stand.

4 JUDGE ROSE: Would you raise your right hand,
5 please?

6 Whereupon,

7 BARBARA KANE

8 was called as a witness by and on behalf of the Respon-
9 dent, and, having been first duly sworn, was examined
10 and testified as follows:

11 DIRECT EXAMINATION

12 Q (By Mr. Snow) What is your name and your occupation?

13 A Barbara Kane, I live at 112 Mansfield, and I'm the
14 director of nursing at the Windham Community Hospital.

15 Q How long have you been the director of nursing
16 at Windham?

17 A Since 1959.

18 Q Did you participate in the collective bargaining
19 negotiations?

20 A Yes.

21 Q Were you working during the summer of 1976 during
22 the strike at the hospital?

23 A Yes, I was.

24 Q I'll show you a copy of Joint Exhibit 2 -- and ask
25 you if you can tell us what that document is?

1 A I believe this is a list we made up for the investi-
2 gation by the NLRB, trying to put the dates of all nurses
3 who were employed at the time of the strike, with any
4 terminations which had come, and all new nurses with
5 date of employment.

6 Q And the first page of that which starts off with an
7 employee named Bennett?

8 A Yes.

9 Q Bennett through Tizdale, were those all bargaining
10 unit nurses who were employed at the time of the strike?

11 A Yes.

12 Q And they went out on strike?

13 A Yes.

14 Q Have any of them returned to work at the hospital
15 since they went out on strike?

16 A No.

17 Q You made the notation, 'abandoned employment,' 9/13
18 opposite all those employees?

19 A Yes.

20 Q How did you arrive at that date of September 13th,
21 do you remember?

22 A Not unless it had something to do with our deciding
23 to make up this list. It was early in September that
24 Mr. Lane gave a list of nurses' names to you and you
25 sent it to us. There were 13 names on the list of nurses

1 who wanted to come back to their employment. Ten of
2 them we took back as soon as they could come, and three
3 of them had been in specific jobs which had been re-
4 placed.

5 Q Were these the other employees?

6 A That's right.

7 Q Who is Mr. Lane?

8 A He is in the private practice of law in Romantic.

9 Q Was he acting on behalf of Unit 62 at that time?

10 A Yes.

11 Q Employee Allegro had no entry opposite her name.
12 What did she do with respect to her employment and the
13 strike?

14 A She crossed the picket line and came to work.

15 Q Employee Bell?

16 A She came back to work on the 26th.

17 Q Bedard?

18 A She came back to work.

19 Q Donnelley?

20 A She was on vacation and when her vacation was over,
21 which was the 26th of April, she came to work.

22 Q Hansel, what was her situation?

23 A She stayed out until the 27th and came back to
24 work.

25 Q And Hanes?

1 A She was out sick until late in May.
2 Q And then came back to work?
3 A Yes.
4 Q Litwak?
5 A Never went out.
6 Q McCaulley?
7 A Came back on the 3rd of May.
8 Q Magneson?
9 A Never went out?
10 Q Wackshone?
11 A Never went out.
12 Q Monast?
13 A Stayed at home the first day and came back the
14 second.
15 Q Wantoya?
16 A Went out and came back the 1st of June.
17 Q McComber?
18 A Came back on the 27th of April.
19 Q St. Marie?
20 A Came back the third of May.
21 Q Tomko?
22 A Never went out.
23 Q Wenzel?
24 A Never went out. She resigned in August and left
25 for California.

1 Q Vezina?

2 A She was on compensation and had surgery during the
3 summer. She came back to work the 27th of September.

4 Q Did she ever strike to your knowledge?

5 A No.

6 Q Eichner?

7 A She stayed out the day of the strike and she had
8 already resigned as of the 2nd of May.

9 Q Farrel?

10 A She went out on strike the 21st of April. She
11 works in the Emergency Room. To my knowledge, she has
12 not resigned. She was replaced on the 30th of April.

13 Q Schroeder, J.?

14 A Mrs. Schroeder worked in Utilization Review. She
15 went out on strike the 21st. Her position was replaced
16 on the 13th of May and I have heard that she has since
17 then resigned.

18 Q Calchera?

19 A She was one of the 13 names Mr. Lane gave you.

20 Q And came back to work?

21 A The 5th of October.

22 Q Is that true now of those first seven down through
23 Dunbar? I'm sorry, withdraw that? The second name on
24 the list?

25 A She came back in September.

- 1 Q Littlefield?
- 2 A I think she came back herself, too.
- 3 Q And McCrahen?
- 4 A She came back herself in July.
- 5 Q Neilan?
- 6 A She came back -- I think she was one of the 13.
- 7 Q Zukowski?
- 8 A One of the 13.
- 9 Q Dunbar?
- 10 A She had already talked with me but her name was
- 11 on that list.
- 12 Q She did not come back before August 23rd?
- 13 A No.
- 14 Q Cocharan?
- 15 A She came back in December. The reason being she
- 16 had a baby in October.
- 17 Q She stayed out on strike until she had her baby and
- 18 after she had the baby came back to work?
- 19 A She was also on that list of 13 names. But we knew
- 20 she intended to come back.
- 21 Q Atherton?
- 22 A She was on the list.
- 23 Q Blanchard?
- 24 A Was on the list.
- 25 Q Deshaies?

- 1 A Was on the list.
- 2 Q She came back September --
- 3 A Yes.
- 4 Q Grennier?
- 5 A On the list.
- 6 Q Jackson?
- 7 A She was on the list.
- 8 Q Nebus?
- 9 A On the list.
- 10 Q Steinhagen?
- 11 A On the list?
- 12 Q Tighe?
- 13 A On the list.
- 14 Q Allard went out on strike April 21st?
- 15 A And I received her letter of resignation early in
- 16 October.
- 17 Q Was she on Mr. Lane's list?
- 18 A No.
- 19 Q Capetta?
- 20 A She resigned to Dr. Brown in the Emergency Room.
- 21 Q Cleary?
- 22 A She resigned to leave the state.
- 23 Q Falk?
- 24 A She resigned late in August.
- 25 Q Gonci?

1 A She resigned in July and had gone to work at the
2 Middlesex Hospital.

3 Q Gove?

4 A She resigned late in August.

5 Q August 23rd?

6 A Yes.

7 Q Hymen?

8 A She resigned the 14th of September.

9 Q Heinz?

10 A She resigned in June but she was reemployed this
11 January.

12 Q Laten?

13 A Resigned in July.

14 Q Maquis?

15 A She resigned the first of June.

16 Q Melle?

17 A Resigned the 30th of May.

18 Q How do you know they resigned?

19 A They sent me a written letter of resignation.

20 Q In every case?

21 A Yes.

22 Q Except where you said to someone else?

23 A Yes.

24 Q Noonan?

25 A Resigned on the 11th of September.

1 Q The rest of the list right down -- is that your
2 testimony with respect to all of those?

3 A Yes.

4 Q Received written letters of resignation on the
5 date indicated?

6 A That's right.

7 Q Had any of those employees, to your knowledge, gone
8 to work as nurses in any other places?

9 A Most of them worked through the summer and some
10 of them had gotten permanent jobs, because I must have
11 written or answered the telephone to at least 15 refer-
12 ences.

13 Q Turning now to the third page of the Exhibit --
14 the page is entitled, "New Nurses on Staff and Still
15 Here," does that refer to the October date on which you
16 prepared this list?

17 A Yes.

18 Q And under date of employment, there are dates
19 listed?

20 A Yes.

21 Q Does that represent when they first came to work
22 for the hospital?

23 A Yes.

24 Q And all of these were still employed by the hospital
25 on August 23rd, except the ones who were not hired?

1 A Yes.

2 Q Turning now to the 4th page -- the employee is
3 Whalen and it lists date of employment, 4/22, is that
4 when she was hired by the hospital?

5 A That's correct.

6 Q And then it says under a column entitled "Present
7 Position - Assistant Head Nurse," do you know when she
8 was promoted to Assistant Head Nurse?

9 A September 13th, 1976.

10 Q And is the Assistant Head Nurse a non-bargaining
11 unit position?

12 A That's correct.

13 Q Now, the next employee is -- Etchel, and she came
14 to work on April 23rd and you have her date of resigna-
15 tion 9/5/76?

16 A Yes.

17 Q Did she submit a written letter of resignation to
18 you?

19 A Yes.

20 Q And Employee Hockstetter, she came to work on April
21 24th, resigned on 9/5?

22 A That's correct.

23 Q And Employee Wayner -- hired on April 26th and
24 resigned on July 2nd?

25 A Right.

1 Q Now, the next four employees, Shay, Clarmont, Hale,
2 and Flynn, we have stipulated did not work substantially
3 at least in July or August?

4 A That's correct.

5 Q Employee Locke and was hired on May 8th and resign-
6 ed 9/5?

7 A That's correct.

8 Q And Hollister was hired on -- Hollister, Brouseau and
9 Morris were all hired in June and terminated in June
10 or July?

11 A Yes.

12 Q Manman was hired on June 14th and she resigned on
13 August 27th?

14 A That's correct.

15 Q And Johnson June 21st and resigned on October 21st?

16 A Yes.

17 Q Highland, June 21st to June 22nd, she did not work
18 long.

19 A Right.

20 Q Ogrean was hired June 21st and resigned on August
21 27th?

22 A That's right.

23 Q Falcetti was hired on July 26th and resigned on
24 9/26?

25 A Yes.

1 Q And Hawk was hired on July 26th and resigned August
2 20th?

3 A That's correct.

4 Q Employee LaRue, whose name appeared on the first
5 page and was crossed off and then written in on what
6 is my page 3, the page that starts with Beatty --

7 A She had worked at the hospital for several years.
8 She left to go and take a position as assistant -- in
9 Pennsylvania and she came back on the 14th of August.
10 She does not belong crossed off on this one.

11 Q She did not participate in the strike?

12 A No.

13 Q Prior to August 23rd, did you have any conversations
14 with any of the nurses in the bargaining unit with
15 respect to their union sentiments?

16 A I had several.

17 Q Which ones and what did they say to you with respect
18 to the union, being opposed to the union?

19 A Two people, Annette Henzel and Nancy McCauley, who
20 had been the student practical nurse instructors, were
21 very upset by the strike. I'm sure they spoke out the
22 night the strike vote was taken.

23 MS. TIMMONS: Objection.

24 JUDGE ROSE: Sustained.

25 Q (By Mr. Snow) Go ahead.

1 A Mrs. Henzel said she was sorry the strike had ever
2 happened. She would not vote for the union. Mrs.
3 McCauley was frightened by the strike and she said very
4 firmly that she disapproved of the strike action.
5 Mrs. Donnelly disproved of the strike and said she was
6 sorry she had not been more vocal against the union in
7 the early months. Mrs. Tomko said she had lived through
8 a strike situation in another hospital and she was opposed
9 to the action. Mrs. Spencer said that she disapproved
10 of the strike.

11 Q Were there any others that you can recall at this
12 time?

13 A Mrs. Neuharth expressed her disapproval.

14 Q I'm showing you a document and ask you if you
15 recognize that document?

16 A This was written the day of the investigation by the
17 National Labor Relations Board.

18 Q Is this your affidavit that you gave?

19 A That's right.

20 Q Does this contain some names other than the ones
21 you mentioned?

22 A Mary Jane Monast.

23 Q Do you now recollect any conversation with Mary
24 Jane?

25 A Yes.

1 Q What was that?

2 A I saw her the day she returned which was the day
3 after the strike and she said she was very sorry that
4 she had ever gotten involved in it. Haines was a night
5 nurse on maternity, and she said she was opposed to unions
6 and to strikes. Mrs. Vezina was out on compensation.
7 She was a hospitalized patient the night of the strike
8 vote and she was very much opposed to it.

9 Q What about Helen Litwak?

10 A She is the health services coordinator who does
11 not feel she should be in Unit 62 and does not wish to
12 be a part of the union.

13 Q Did any of the employees who came to work either
14 -- who either did not go on strike or who subsequently
15 came to work prior to August 23rd, did any of them other
16 than these ever express to you any sentiments for or
17 against the union?

18 A In my interview with all of the new employees,
19 I went through the strike and what our situation was --

20 Q I'm talking about those who either never went on
21 strike, who were employees on April 21st, or those who
22 subsequently came in to work before August 23rd.

23 A Mrs. Whelan is opposed to strike. Mrs. Marman
24 was very much opposed to it. Mrs. Hockstetter was opposed
25 to a union.

1 Q Did any of the employees in the bargaining unit
2 who came to work before August 23rd express any sentiments
3 in support of the union?

4 A No. Not to my knowledge.

5 Q Where is your residence in relation to the hospital?

6 A It's on hospital property.

7 Q And were you there from April through August?

8 A Yes.

9 Q Did you observe the picketing that took place at
10 the hospital?

11 A I did.

12 Q Would you describe it for us, in April and May and
13 June and July?

14 A In April and the early part of May -- we have two
15 entrances to the hospital -- there would be as many as
16 four people at each entrance. They came at 6:30 in the
17 morning and would stay all day and go home about 9
18 o'clock at night and then come back at 10:30 to meet
19 the night staff coming on and would leave about 11:30
20 or 12 o'clock.

21 Q And in June?

22 A In June, it started to get warmer. There were
23 fewer people on the picket line. I can't tell you what
24 date they decided to do it only at change of shift.
25 Starting late in June, there would very frequently be

1 no one there on the week-ends. By late in June, if
2 there was a choice, they would stay at the front entrance
3 and not the back entrance. In July it was sporadic.
4 By the 6th of August, it was over.

5 Q Do some employees customarily use the back entrance?

6 A A great many do.

7 Q And some use the front entrance?

8 A Yes.

9 Q All right.

10 MR. SNOW: That's all I have.

11 CROSS EXAMINATION

12 Q (By Ms. Timmons) Mrs. Kane, you testified that a
13 nurse Hockstetter told you that she opposed the union?

14 A Yes.

15 Q When did you talk to her?

16 A Back in May.

17 Q Of 1976?

18 A Yes.

19 Q What did she do -- what did she say to you at that
20 time?

21 A She said she disapproved of strikes.

22 Q Nurse Harmen, when did you speak with her?

23 A I think she came at the end of May. She came for
24 a job at the Emergency Room, but because we had a strike
25 going on, she worked in the Coronary Care unit, because

1 she had had experience in another hospital.

2 Q When did you speak to her?

3 A I would say in June to the best of my recollection.

4 Q 1976?

5 A Yes.

6 Q What did she say to you?

7 A She said she disapproved completely of unions in
8 nursing.

9 Q Mrs. Whelan, when did you speak to her?

10 A I spoke to her probably as many as six times..

11 Q Did you speak to her after August 23rd as well?

12 A Yes.

13 Q Prior to August 23rd had you spoken to her?

14 A Yes.

15 Q Who had initiated the conversation?

16 A She had.

17 Q What did she say to you?

18 A She came to me the day of the strike vote and offer-
19 ed her services, in case the strike happened, and she
20 came to work the day after the strike. She does not
21 approved of strikes in nursing.

22 Q When did you speak to Mrs. Litwak?

23 A In April.

24 Q Who initiated the conversation?

25 A She did.

1 Q And when you initiated them what would did you say?

2 A My conversation probably did not start about the
3 strike or the union. It probably started about something
4 else. She felt completely uncomfortable in Unit 62.

5 Q Nurse Haines --

6 A Yes.

7 Q When did you speak to her?

8 A Before the strike in April and again in May when
9 she returned.

10 Q What did Nurse Haines tell you after the strike
11 occurred?

12 A She came in to the office and asked what hours we
13 would like her to come back to work.

14 Q Was that all that was said?

15 A No, she is very vehement about unions because she
16 had something in her background.

17 Q What did she say?

18 A She did not believe in unions.

19 Q Mary Jane Monst --

20 A Monast.

21 Q When did you speak to her?

22 A I saw her on the 22nd of April.

23 Q And Nurse Newhart -- when did you speak with her?

24 A In April. She came to work the week of the strike.

25 Q Did you have a conversation with her?

1 A Yes.

2 Q What did she say?

3 A She disapproved of a strike in a hospital.

4 Q Nurse Spencer, when did you speak with her?

5 A 21st of April and several times since then. She
6 called up the day of the strike to say she would begin,
7 because she disapproved of them.

8 Q Nurse Tomko, when did you speak to her?

9 A The day before the strike.

10 Q Did you speak to her after the strike?

11 A Yes.

12 Q Nurse Donnelly -- when did you speak with her?

13 A 26th of April.

14 Q And, she also told you that she disapproved of strikes?

15 A Yes, and she regretted not having been more artic-
16 ulate before the strike.

17 Q About what?

18 A About her opposition to the union.

19 Q To the union or to the strike?

20 A To the union.

21 Q Nurse Hanzel, when did you speak with her?

22 A I talked with her probably each day for the first
23 four or five days after the strike.

24 Q She was one of the individuals who crossed the
25 picket line?

1 A Yes.

2 Q What did she say?

3 A She wept and said she wanted very much to come back
4 but she was afraid to and she finally decided to cross
5 the picket line on the 27th of April.

6 Q Did she say what she was upset about?

7 A The strike which she did not believe in.

8 Q Now, all these people that you have testified spoke
9 to you in opposition to the union and/or in opposition
10 to the strike that was being conducted, did you keep a
11 -- did you keep notes with regard to those who came to
12 you and spoke to you about it?

13 A Not really.

14 Q Did you ever communicate the fact that these people
15 talked to you, to any other supervisor or administrator
16 in the hospital?

17 A I'm sure I told Mr. Ritchie.

18 Q Do you recall when you spoke to Mr. Ritchie?

19 A I speak with him 7 days a week.

20 Q When you spoke to Mr. Ritchie on a daily basis,
21 did you communicate each and every one of these instances
22 where nurses spoke to you either about the strike or the
23 union to Mr. Ritchie?

24 A I'm sure I told him the people who did feel this
25 way.

1 Q When did you tell him these? Did you tell him this
2 as they were occurring or within a day or so or did you
3 tell them to him subsequently, weeks later?

4 A I would say every 2nd or 3rd day.

5 Q And when you told Mr. Ritchie -- when you had these
6 conversations with him, what would you say to him about
7 these individuals?

8 A I would probably say, "Frank, Spencer met me in the
9 hall yesterday," and would repeat whatever she had
10 said.

11 Q You did that for each and every individual?

12 A Yes.

13 JUDGE ROSE: We'll go off the record for a few
14 minutes at this time.

15 (Whereupon, a brief recess was taken.)

16 JUDGE ROSE: Back on the record.

17 You may continue, Ms. Timmons.

18 Q (By Ms. Timmons) You started testifying that you
19 talked to all new employees that were being hired and
20 talked to them about the strike, is that correct?

21 A Yes.

22 Q What did you tell the employees?

23 A I told them dates and numbers of people --

24 Q Dates and numbers of people of what?

25 A Dates of the strike. Numbers of nurses who had left.

1 I told them what I thought the issues were. I wanted
2 them to be very certain that they understood and -- that
3 we were in that stage, because for many of them, it was
4 their first employment and that's a big decision for a
5 new nurse to make. I explained that we were only offer-
6 ing jobs on the evening or the night shift because of the
7 strike. That my head nurse and supervising staff was
8 working evenings and nights.

9 Q When you told them what the major issues were, did
10 you communicate the hospital's position as well as the
11 union's, or did you communicate both sides?

12 A I tried to communicate both.

13 Q Was there anybody at all that you interviewed?
14 Either a returning striker or a new employee seeking a
15 job who came out and told you that they were in favor
16 of the strike or that they approved of unions?

17 A No, but I doubt that they'd tell me.

18 Q Okay. During these conversations that you had with
19 the nurses where they told you they were against the
20 strike, isn't it true that many of them were against --
21 based on your conversations that you had with these
22 individuals, the strike came up in the context of the
23 fact that these nurses felt, as they communicated it to
24 you, that the strike was unprofessional and that, they, as
25 nurses, should be concerned with patient care and not let

1 differences between hospital and the union interfere
2 with that role?

3 A I think most of them seemed to feel that there
4 wasn't justification enough for something as serious as a
5 strike.

6 Q Were you aware, Miss Kane, of the letters that the
7 hospital sent to nurses during the time they were out
8 on strike and isn't it true that in those letters, the
9 hospital encouraged the nurses to put aside their differ-
10 ences and come back and help care for the patients?

11 A That's true.

12 MS. TIMMONS: I have no further questions.

13 JUDGE ROSE: Mr. Snow?

14 REDIRECT EXAMINATION

15 Q (By Mr. Snow) Did you ever initiate a conversa-
16 tion with an employee about his or her union sentiments,
17 Miss Kane?

18 A I don't believe so.

19 Q You had been instructed, in fact, not to institute
20 or instigate any such conversations, isn't that true?

21 A Yes.

22 MR. SNOW: That's all I have.

23 MS. TIMMONS: No further questions.

24 JUDGE ROSE: You're excused.

25 (The witness was excused.)

1 JUDGE ROSE: Call your next witness.

2 MR. SNOW: Mr. Tremblay.

3 JUDGE ROSE: Would you raise your right hand,
4 please?

5 Whereupon,

6 KENNETH TREMBLAY

7 was called as a witness by and on behalf of the Respon-
8 dent, and, having been first duly sworn, was examined
9 and testified as follows:

10 JUDGE ROSE: Please be seated.

11 DIRECT EXAMINATION

12 Q (By Mr. Snow) State your name and address?

13 A Kenneth Tremblay, Back Road, Windham Center.

14 Q And your job at Windham is what?

15 A Administrative Assistant.

16 Q And is general personnel function one of your respon-
17 sibilities?

18 A yes, sir.

19 Q Do you recall a time in July when a communication
20 was received from the union with respect to vacation
21 pay?

22 A Yes, we received a letter from CNA with a listing
23 of names and the estimated amount of vacation due. And
24 these were a list of the staff nurses that were on
25 strike. The letter was dated the 29th of July. We

1 verified the data. And it was paid the week ending
2 August 1st.

3 Q The employees on strike were paid the vacation pay
4 that had accrued prior to the time they went on strike?

5 A yes.

6 Q Did you make additional payments subsequent to
7 that? To the employees on strike?

8 A We worked up a cost data. The cost data on paying
9 all the accrued holiday time to the individuals on strike
10 and also the retroactive pay from October 4th through
11 April 20th. That's October 4th of '75 to April 20th
12 of '76.

13 Q What is the hospital's policy with respect to pay
14 increase for bargaining unit employees -- during this
15 period?

16 A During negotiations on October 4th of '75 an
17 increase was given all hospital employees with the excep-
18 tion of the bargaining unit because we wouldn't be able
19 to.

20 Q Were we in negotiations at that time?

21 A Yes. On April 21st, the day of the strike, we
22 issued the increase to all the staff nurses in the
23 bargaining unit, whether they went out on strike or
24 did not.

25 Q. As of --

1 A That would have been the week ending 25 April..

2 Q Did employees who did not strike receive a wage
3 increase retroactive to October 4th at any time?

4 A The week ending August 15th of '76, all the
5 RNs in the bargaining unit were issued their retroactive
6 pay in the period of October '75 through April of '76.
7 This included the nurses that were still out on strike,
8 the terminated nurses and the nurses that didn't go
9 out.

10 Q What did you do with respect to holiday pay at
11 that time?

12 A We also paid all accrued holidays at this time to
13 the RNs that were out on strike.

14 Q Why did the hospital do this at this time?

15 A It was felt that all the nurses should receive the
16 retroactive pay.

17 Q And the holiday pay?

18 A Yes. And the vacation pay was two weeks earlier.

19 MR. SNOW: I have no further questions.

20 JUDGE ROSE: Ms. Timmons?

21 CROSS EXAMINATION

22 Q (By Ms. Timmons) Do you have the letter with you
23 that the union sent you dated July 29th?

24 A Yes.

25 Q Would you refer to that letter for a moment,

1 please.

2 A Yes.

3 Q This letters contains 15 employees, is that
4 correct?

5 A Yes.

6 Q In order to become eligible for vacation pay was
7 there a necessary period of time that an employee has
8 worked at the hospital?

9 A Yes, an employee must have completed 50 weeks.
10 Prior to becoming eligible for vacation.

11 MS. TIMMONS: No further questions.

12 JUDGE ROSE: You're excused, thank you.

13 (The witness was excused.)

14 MR. SNOW: Could we possibly have ten minutes to
15 see if we're ready to rest?

16 JUDGE ROSE: Yes, off the record.

17 (Whereupon, a brief recess was taken.)

18 JUDGE ROSE: Back on the record.

19 MR. SNOW: We have nothing further.

20 JUDGE ROSE: Does Respondent rest?

21 MR. SNOW: Respondent rests, yes.

22 JUDGE ROSE: Do you have rebuttal please?

23 MS. TIMMONS: Yes, I call Mary Lou Millar back
24 to the stand.

25 JUDGE ROSE: Okay, Mrs. Millar, let me remi

1 that you're still under oath.

2 THE WITNESS: Yes.

3 Whereupon,

4 MARY LOU MILLAR

5 resumed the stand, and having been previously advised,
6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 Q (By Ms. Timmons) Mrs. Millar, did you ever have
9 any conversations with strikers or picketers during the
10 course of the picketing in 1976?

11 A Yes, I was on the picket line myself many time.

12 Q And can you tell us what these conversations con-
13 sisted of?

14 A Well, first of all, many of the picketers, nurses
15 in the bargaining unit, felt it really wasn't necessary
16 to picket. They felt that the fact that they were out
17 on strike was sufficient to show the employer that they
18 were out on strike and they did not need to keep a picket
19 line going and during the month of April, May and June
20 those who were picketing became very concerned about
21 what was going to happen during the summer.

22 Q Did you, yourself, have these conversations with the
23 picketers?

24 A Yes, I did.

25 Q And during the course of these conversations that

1 you personally had with the picketers, aside from what
2 you've already mentioned regarding their philosophy on
3 picketing and the need not to actually be physically
4 present, but their mere striking was sufficient, were
5 there any other reasons that they stated, to you, that
6 they felt -- were there any other reasons that they
7 told you they were not going to picket?

8 MR. SNOW: Objection, hearsay.

9 JUDGE ROSE: Sustained.

10 Q (By Ms. Timmons) Prior to -- other than talking
11 to Mr. Snow, did you ever contact anyone else regarding
12 resumption of negotiations in August of 1976?

13 A Yes.

14 Q Who was that?

15 A Tom Carroll, the Federal Mediator.

16 Q When did you talk to him?

17 A Two weeks prior to the 23rd.

18 Q And what was your conversation with him at that time?

19 A I told him that the unit had asked me to schedule
20 a negotiating session and that I would call Mr. Snow
21 regarding that.

22 Q Did you -- when you talked to Mr. Snow on August
23 23rd, did you inform him that you had contacted the
24 federal mediator?

25 A I don't know.

1 Q Why did you not ask the federal mediator to contact
2 Mr. Snow directly?

3 MR. SNOW: Objection.

4 JUDGE ROSE: Well, it seems to me, Mr. Snow, that
5 you made a fair point out of the fact that you would
6 not like to go through the mediator -- If they shed some
7 light on that point, I'm going to receive it.

8 THE WITNESS: The unit requested me not to work with
9 the federal mediator on the case, because we did not
10 like him.

11 Q (By Ms. Timmons) To your knowledge, had any individ-
12 ual representing Unit 62 ever made a request upon Mr.
13 Ritchie to bargain?

14 A No, that wouldn't have been the proper protocol.

15 Q Why is that?

16 A He was not part of the bargaining team.

17 Q During your conversation with Mr. Snow on August
18 23rd -- strike that. You were in the hearing room
19 earlier when Mr. Snow was testifying were you not?

20 A Yes, I was.

21 Q And based upon hearing Mr. Snow's testimony,
22 did that help refresh your recollection in any manner
23 regarding matters that you discussed at that time?

24 A Yes, it did.

25 Q. And, with regard to the matter of the confidentiality

1 of the conversation, did Mr. Snow's testimony refresh
2 your recollection in that area?

3 A Yes.

4 Q Can you tell us, now, as closely as you can
5 remember what was said during the conversation you had
6 with Mr. Snow on August 23rd.

7 A That the unit did wish to go to the bargaining
8 table. That they were prepared to make movements and
9 then I told Mr. Snow about the conversation regarding
10 the areas where movement might be possible -- would
11 be confidential.

12 Q With regard to that conversation on movement where
13 areas -- where the unit felt there were areas --
14 specifically on taking strikers back to work, can you
15 tell us what you recall the conversation to be that
16 you had with Mr. Snow on August 23rd?

17 A I told him that the number of striking nurses
18 who wished immediate employment was much smaller than
19 had been stated previously at other negotiating sessions
20 and the union had taken a very adamant position that
21 all employees must be reinstated as a condition of
22 employment.

23 Q Did you precondition the resumption of negotiations
24 on the company's assent to certain conditions?

25 MR. SNOW: Objection. It calls for a conclusion

1 on her part.

2 JUDGE ROSE: Sustained.

3 Q (By Ms. Timmons) The letter that you sent to the
4 company on July 29th, regarding vacation pay for strik-
5 ers, were those 15 people in that letter, the only indi-
6 viduals on strike at that time?

7 A No, they were not.

8 MS. TIMMONS: I have no further questions.

9 JUDGE ROSE: Mr. Snow?

10 CROSS EXAMINATION

11 Q (By Mr. Snow) I didn't understand -- you said
12 that the unit asked you not to call the federal media-
13 tor and yet you called him, is that correct?

14 A I called him to tell him, yes.

15 Q What about the state mediator? Jim Donnelly --

16 A Yes.

17 Q Did you contact him?

18 A No, I did not.

19 MR. SNOW: I have nothing further.

20 MS. TIMMONS: Nothing.

21 JUDGE ROSE: You're excused, Mrs. Millar.

22 (The witness was excused.)

23 MS. TIMMONS: I have no further witnesses.

24 JUDGE ROSE: Anything else?

25 MR. SNOW: I have one very brief question for Mr.

1 Tremblay.

2 JUDGE ROSE: Okay, come up here, and let me remind
3 you that you're still under oath in this matter.

4 MR. SNOW: Would you list the members of the hospi-
5 tal's bargaining group and their positions?

6 MR. TREMBLAY: Attorney Snow, Chief Spokesman. Mr.
7 Peck, the Assistant Administrator. Ms. Kane, Director
8 of Nursing, and myself, the Administrative Assistant.

9 MR. SNOW: That's all.

10 MS. TIMMONS: Nothing further.

11 JUDGE ROSE: Anything else anyone else wants to
12 bring up?

13 MS. TIMMONS: Nothing.

14 JUDGE ROSE: Let's go off the record.

15 (Discussion had off the record.)

16 JUDGE ROSE: Back on the record.

17 In an off the record discussion, Counsel for both
18 parties indicate that they wish to submit briefs in this
19 matter. We've set the date for the receipt of briefs
20 to be April 11, 1977 at my office in Washington. At that
21 time, I'll consider this matter submitted. I'll then
22 undertake to make a decision. My decision will be in
23 writing. I'll file a copy of it with the Board and
24 simultaneously send a copy of my decision to each of the
25 parties. At that point forward, the Board's rules and

1 regulations tell you what to do if you don't like the
2 decision in any way.

3 If there anything else that anybody wants to say?

4 MS. TIMMONS: NO.

5 JUDGE ROSE: If not, it's been a pleasure and the
6 hearing is now closed.

7 (Whereupon, at 2:50 p.m., the hearing in the above-
8 entitled matter was closed.)

9 * * * * *

111

JD-319-77
Willimantic, CT

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

File 9/19/77

WINDHAM COMMUNITY MEMORIAL
HOSPITAL AND HATCH HOSPITAL
CORPORATION

Case No. 1-CA-12,283

and

WINDHAM COMMUNITY MEMORIAL
HOSPITAL, REGISTERED NURSES
UNIT 62, CONNECTICUT NURSES
ASSOCIATION

Patricia Timmons, Esq., of
Boston, MA, for the
General Counsel.
Robert Snow, Jr., Esq., of
New Haven, CT, for the
Respondent.

DECISION

Statement of the Case

JAMES L. ROSE, Administrative Law Judge: This matter was tried before me on March 15, 1977, at Hartford, Connecticut, upon the General Counsel's complaint which alleged that since on or about August 23, 1976, the Respondent has failed and refused to bargain with the above-named labor organization in violation of Section 8(a)(5) of the National Labor Relations Act, 29 U.S.C. § 151 et seq.

The Respondent contends that since on or about August 15, 1976, it has had a good-faith doubt that the Union in fact continued to represent a majority of its employees in the unit for which the Union was certified. Accordingly its withdrawal of recognition and its refusal to bargain was justified.

Upon the record as a whole, including my observation of the witnesses, briefs and arguments of counsel, I hereby make the following:

5

Findings of Fact
and Conclusions of Law

I. Jurisdiction

10

The Respondent is a Connecticut corporation engaged in operating a general hospital providing health care services. The Respondent has annual gross receipts in excess of \$250,000 and annually receives goods, products and materials valued in excess of \$50,000 directly from points outside the State of Connecticut.

15 The Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Sections 2(2), 2(6) and 2(7) of the Act.

II. The Labor Organization Involved

20

Windham Community Memorial Hospital, Registered Nurses Unit 62, Connecticut Nurses Association (herein the Union), is the organization which the Board certified as the exclusive collective-bargaining representative of the employees in the unit described below. The Union was certified by the Board on August 15, 1975, and thereafter negotiated with the Respondent for a collective-bargaining agreement to cover the terms and conditions of the employment of members of the bargaining unit. The evidence demonstrates that employees were in fact members of the Union and did participate in it.

25

While the Respondent denies that the Union is a labor organization within the meaning of the Act, I find that it is, and all material times has been, an organization in which employees participate and which exists in part for the purpose of dealing with an employer concerning terms and conditions of employment of its members. The Union therefore is a labor organization within the meaning of Section 2(5) of the Act.

35

40

III. The Bargaining Unit

All full-time and regular part-time Registered Nurses in the Department of Nursing and the Emergency Department including Staff Nurses, IV Therapists, In-service Instructors, LPN Program Instructors,

45

Utilization Review Nurses and Health Service Coordinator employed by Respondent at its Connecticut hospital, but excluding all other employees, LPN Program Coordinator, In-service Education Coordinator, Utilization Review Coordinator Supervisor, Head Nurses, Assistant Head Nurses, Emergency Department Supervisor, Operating Room Supervisor, OBS Supervisor, Night Supervisor, Assistant Night Supervisor, Relief Night Supervisor, Evening Supervisor, Assistant Evening Supervisor, Relief Evening Supervisor, Clinical Nursing Supervisor, ICU-CCU Supervisor, Administrative Assistant Supervisor, Director of Nursing, guards and supervisors as defined in Section 2(11) of the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

IV. The Alleged Unfair Labor Practices

On or about August 7, 1975, a majority of the employees in the above-described bargaining unit selected the Union as their representative for purposes of collective bargaining with Respondent, and on or about August 15 the Union was so certified by the Regional Director for the First Region.

Beginning on or about November 6, 1975, representatives of the Union commenced negotiations with representatives of the Respondent. There were several negotiation sessions through April 20, 1976. ^{1/} On that date, members of the bargaining unit voted to engage in an economic strike of the Respondent which commenced on April 21.

The parties nevertheless continued to meet and negotiate with a number of items being resolved. On June 9, they held their last negotiation session, all parties agreeing at that time that there was substantial disagreement on important items.

Of the approximately 72 employees in the bargaining unit, 57 went on strike on April 21. Of these 57, 6 resigned prior to August 23 and 9 returned to work. Approximately 15 employees did not go on strike. From April 21 through August 23 the Respondent hired 42 strike replacements who continued to be employed as of August 23. Thus the records of the Respondent stipulated to by the parties indicate that as of August 23, including strikers, there were approximately 108

^{1/} Hereafter all dates are in 1976 unless otherwise indicated.

employees in the bargaining unit of which approximately 42 were strike replacements and 24 were members of the original bargaining unit who either did not go on strike or had returned to work after the strike commenced. There were 42 employees still on strike.

5 On or about August 23 Mary Lou Millar, the chief spokesperson for the Union, called the Respondent's attorney, Robert B. Snow Jr., and advised him that the Union would like to recommence negotiations. She stated that some movement could be made with regard to the matter of wages and the formula by which the Respondent would take
10 back the striking employees.

Snow said he would communicate this to the hospital authority, which he did. The hospital administrator, Frank E. Ritchie, testified that when Snow contacted him, he advised Snow that the
15 hospital would no longer negotiate with the Union, as they did not feel that the Union continued to represent a majority of the nursing employees. This position was communicated then by Snow to Millar.

Some events occurred after August 23 including contact by
20 an attorney for the Union with the Company, some strikers were reinstated and others resigned. However, inasmuch as the complaint alleges that the refusal to bargain occurred on August 23, and the Respondent states as of that date it had a reasonable doubt of the Union's continued majority status, those subsequent events appear
25 not to be relevant.

A. Analysis and Concluding Findings

The General Counsel rested on the theory that the Union,
30 which had established its majority by secret ballot election on August 15, 1975, was presumed to continue to represent a majority through August 23, 1976. The vote was 38 for to 19 against the Union.

As stated by the Board in Taft Broadcasting, WDAF-TV, AM-FM
35 201 NLRB 801 at 802 (1973):

The legal principles relating to withdrawal of recognition of a bargaining representative are well settled. Absent special circumstances, a union enjoys
40 an irrebuttable presumption of majority status for 1 year after certification. Thereafter, the presumption continues, but becomes rebuttable upon a sufficient showing to cast serious doubt on the union's continued majority status.

45 And, as the Board recently held in Arkay Packaging Corporation, 227 NLRB No. 59 (1976), where an employer demonstrates objective considerations upon which to base its claim that the union no longer

represents a majority of the employees then such "reasonably based doubt constitutes a complete defense to the allegations of unlawful refusal to bargain. . . ." Thus irrespective of whether the Union in fact represented a majority as of August 23, 1976, if the

- 5 Respondent is able to demonstrate sufficient objective considerations to believe that the Union no longer did so such is a complete defense to the allegation that it violated the Act when it withdraw recognition on August 23. On the other hand absent such objective considerations, the Respondent must prove the Union no longer represents a majority.
- 10 If it fails to do so, then the presumption of continued majority status is not rebutted and the Respondent could not with impunity withdraw recognition. Bartenders, Hotel, Motel and Restaurant Employers Bargaining Association of Pocatello, Idaho and Its Employer-Members, 213 NLRB 651 (1974).

- 15 The principal consideration Ritchie testified to was the fact that approximately 20 employees in the bargaining unit had not gone on strike in the first instance and that 40 plus employees had been replaced following the strike. He felt that these employees, since
- 20 they were not strikers, did not wish the Union to bargain for them. Since this number was more than those remaining on strike, he felt that the Union no longer represented the majority.

- Ritchie also testified that the intensity of the picketing
- 25 had slacken substantially from April through the summer and by the first of August there was no picketing at all. This indicated to him that the Union, even those on strike, had in fact abandoned the strike.

- 30 I do not believe that the intensity of the picketing is significantly relevant; or that absent other factors, such would reasonably be cause for an employer to conclude that the Union no longer had a majority. In fact some evidence is to the effect that the picketing was cut back due to summer vacations.

- 35 Ritchie's principal basis for withdrawing recognition was that by August 23 the bargaining unit was substantially filled with people who were crossing the picket line, two-thirds of whom were strike replacements. Thus he could assume that those individuals
- 40 did not want the Union to represent them. But this inference does not follow, particularly in this industry where, according to the testimony, many union adherents did not support the strike because they thought it was unprofessional. Such does not mean they rejected the Union as their bargaining representative. Cf. Terrell Machine
- 45 Company, 173 NLRB 1480 (1969) enfd. 427 F. 2d 1088 (4th. Cir., 1970)..

In any event there is an obvious distinction between employees who, for whatever reason, resorted to the strike as a means for attaining bargaining objectives and strike replacements. The latter might well be presumed not to want the union to represent them. Arkay Packaging Corporation, supra. No such presumption can be made of the former.

Beyond this is Ritchie's testimony to the effect that the determination to withdraw recognition was made before the expiration of the certification year and was based in part, at least, on his desire not to bargain any longer with the Union. Thus he testified that with the new hires he felt the employees no longer wanted the Union and:

I also recall that I said something like I was very discouraged about the last 4 or 5 negotiation sessions and I felt that it wasn't - that we shouldn't enter into them again, because I did not want to continue on the same path.

20

*

*

*

And we had these two unresolved issues that we couldn't seem to resolve and I didn't feel it would be prudent to continue the discussions.

25

Dissatisfaction with the course of bargaining is not grounds for withdrawing recognition. Nor is it an objective consideration upon which to conclude that a union no longer represents a majority. Yet it is apparent that Ritchie's feelings in this regard were important to the decision to cease bargaining.

30

In summary, the objective considerations relied on by the Respondent to justify withdrawing recognition are: about 20 employees did not go on strike and 40 some were hired as replacements, 2/ some of the nonstrikers did not approve of the strike, and the intensity of the picketing slackened.

35

Unlike Arkay Packaging Corporation, supra, there was no evidence that the Union had abandoned the bargaining unit. There were negotiations until June, an impasse, and finally the Union asked for a meeting indicating that there could be movement. In this context, the mere fact that there were some replacements and some nonstrikers is not of itself sufficient to justify withdrawing recognition.

45

2/ Ritchie did not testify to precise numbers nor did he have them at the time he withdrew recognition.

Nor did the Respondent establish that in fact a majority no longer supported the Union. Indeed, assuming that the replacements had no allegiance to the Union, but the nonstrikers and those who returned do in the same ratio as the vote (2-1) then as of August 23:

5	For the Union	Against the Union
	42 Strikers	42 Replacements
	<u>16</u> Nonstrikers	<u>8</u> Nonstrikers
10	58	50

From the totality of the record, I conclude that the Union's presumption of continued majority has not been rebutted, that the Respondent did not demonstrate sufficient objective considerations to justify its withdrawal of recognition, and in doing so it has breached its duty to bargain in violation of Section 8(a)(5) of the Act.

The General Counsel further contends that the strike, economic in its inception, was converted to an unfair labor practice strike by virtue of the Respondent's refusal to bargain. The Union sought to negotiate further and one item was ending the strike. This the Respondent rejected. I therefore conclude that a precipitating cause, at least, for the strike's continuance was the unfair labor practice, and find that the strike was converted on August 23. The strikers are entitled to reinstatement as unfair labor practice strikers.

The Remedy

Having found that the Respondent has engaged in an unfair labor practice within the meaning of Section 8(a)(5) and (1) of the Act, I will recommend that the Respondent be ordered to cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Upon the above findings of fact, conclusions of law, the entire record in this case, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended: 3/

3/ In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

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JD-319-77

ORDER

Respondent, Windham Community Memorial Hospital and Hatch
Hospital Corporation, its officers, agents, successors, and assigns,
5 shall:

1. Cease and desist from:

10 (a) Refusing to recognize and bargain with Windham
Community Memorial Hospital, Registered Nurses Unit 62, Connecticut
Nurses Association, in the following unit found appropriate for the
purposes of collective bargaining within the meaning of Section 9(b)
of the Act.

15 All full-time and regular part-time Registered
Nurses in the Department of Nursing and the Emergency
Department including Staff Nurses, IV Therapists,
In-service Instructors, LPN Program Instructors,
20 Utilization Review Nurses and Health Service Coordinator
employed by Respondent as its Connecticut hospital,
but excluding all other employees, LPN Program
Coordinator, In-service Education Coordinator,
Utilization Review Coordinator Supervisor, Head Nurses,
25 Assistant Head Nurses, Emergency Department Supervisor,
Operating Room Supervisor, OBS Supervisor, Night
Supervisor, Assistant Night Supervisor, Relief Night
Supervisor, Evening Supervisor, Assistant Evening
Supervisor, Relief Evening Supervisor, Clinical
30 Nursing Supervisor, ICU-CUU Supervisor, Administrative
Assistant Supervisor, Director of Nursing, guards and
supervisors as defined in Section 2(11) of the Act.

(b) In any like or related manner interfering with,
restraining or coercing its employees in the exercise of the rights
35 guaranteed them by Section 7 of the Act.

2. Take the following affirmative action:

40 (a) Upon request, recognize and bargain with Windham
Community Memorial Hospital, Registered Nurses Unit 62, Connecticut
Nurses Association, in the unit of:

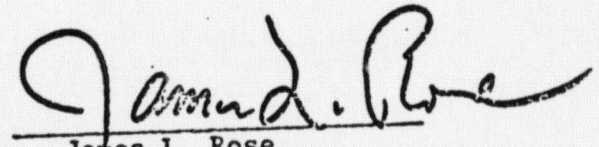
45 All full-time and regular part-time Registered
Nurses in the Department of Nursing and the Emergency
Department including Staff Nurses, IV Therapists,

In-service Instructors, LPN Program Instructors, Utilization Review Nurses and Health Service Coordinator employed by Respondent at its Connecticut hospital, but excluding all other employees, LPN Program Coordinator, In-service Education Coordinator, Utilization Review Coordinator Supervisor, Head Nurses, Assistant Head Nurses, Emergency Department Supervisor, Operating Room Supervisor, OBS Supervisor, Night Supervisor, Assistant Night Supervisor, Relief Night Supervisor, Evening Supervisor, Assistant Evening Supervisor, Relief Evening Supervisor, Clinical Nursing Supervisor, ICU-CCU Supervisor, Administrative Assistant Supervisor, Director of Nursing, guards and supervisors as defined in Section 2(11) of the Act.

(b) Post at its Willimantic, Connecticut, facility copies of the attached notice marked "Appendix." 4/ Copies of the notice on forms provided by the Regional Director for Region 1, after being duly signed by its authorized representative, shall be posted by it immediately upon receipt thereof, and maintained by it for 60 consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken to insure that said notices are not altered, defaced or covered by any other material.

(c) Notify the Regional Director for Region 1, in writing within 20 days from the date of this Order what steps it has taken to comply herewith.

Dated, Washington, D. C. May 9, 1977


James L. Rose
Administrative Law Judge

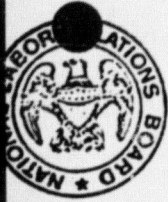
4/ In the event that the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall be changed to read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

8 120

APPENDIX

JD-319-77

FORM NLRB-4727
(9-69)



NOTICE TO EMPLOYEES



POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
AN AGENCY OF THE UNITED STATES GOVERNMENT

After a trial in which all parties were given the opportunity to participate and present their positions, it has been found by the National Labor Relations Board that we have committed certain unfair labor practices. We have been ordered to cease and desist therefrom, to post this notice, and to comply with the terms of it.

WE WILL NOT refuse to recognize and bargain in good faith with WINDHAM COMMUNITY MEMORIAL HOSPITAL, REGISTERED NURSES UNIT 62, CONNECTICUT NURSES ASSOCIATION as the exclusive representative of our employees in the following bargaining unit:

All full time and regular part-time Registered Nurses in the Department of Nursing and the Emergency Department including Staff Nurses, IV Therapists, In-service Instructors, LPN Program Instructors, Utilization Review Nurses and Health Service Coordinator employed by Respondent at its Connecticut hospital, but excluding all other employees, LPN Program Coordinator, In-service Education Coordinator, Utilization Review Coordinator Supervisor, Head Nurses, Assistant Head Nurses, Emergency Department Supervisor, Operating Room Supervisor, OHS Supervisor, Night Supervisor, Assistant Night Supervisor, Relief Night Supervisor, Evening Supervisor, Assistant Evening Supervisor, Relief Evening Supervisor, Clinical Nursing Supervisor, ICU-CMU Supervisor, Administrative Assistant Supervisor, Director of Nursing, guards and supervisors as defined in Section 2(11) of the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

WE WILL recognize and upon request bargain in good faith with the Union as the exclusive bargaining representative of our employees in that unit.

WE WILL NOT in any like or related manner interfere with, restrain or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WINDHAM COMMUNITY MEMORIAL HOSPITAL
AND HATCH HOSPITAL CORPORATION
(Employer)

Dated _____

By _____

(Type name in full)

(Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 12th Floor - Keystone Building, 99 High Street, Boston, Massachusetts 02110 (Tel. No. 617 - 223-3313).

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of
WINDHAM COMMUNITY MEMORIAL HOSPITAL
AND HATCH HOSPITAL CORPORATION
and
WINDHAM COMMUNITY MEMORIAL HOSPITAL,
REGISTERED NURSES UNIT 62, CONNECTICUT
NURSES ASSOCIATION

May 31, 1977

CASE NO. 1-CA-12,283

PART I

COUNSEL FOR GENERAL COUNSEL'S STATEMENT OF EXCEPTION

Pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board, Series 8, as amended, the General Counsel, by Counsel for the General Counsel, hereby takes exception to certain of the findings, conclusions or recommendations made in the Administrative Law Judge's Decision and to the failure to make certain findings, conclusions and recommendations therein, in the respect hereinafter set forth:

EXCEPTION 1

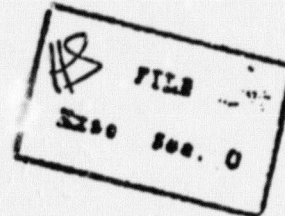
The Administrative Law Judge erred by failing to include in his Order that upon application to Respondent, the strikers are entitled to reinstatement, given that the Administrative Law Judge found in his opinion that the strike was converted to an unfair labor practice strike and that "the strikers are entitled to reinstatement as unfair labor practice strikers."

Respectfully submitted,

Patricia L. Timmins
Patricia L. Timmins, Counsel for
the General Counsel
National Labor Relations Board
First Region
Boston, Massachusetts 02110

Dated at Boston, Massachusetts
this 27th day of May, 1977.

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of

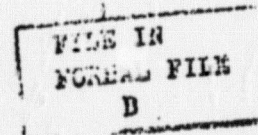
WINDHAM COMMUNITY MEMORIAL HOSPITAL
and HATCH HOSPITAL CORPORATION

and

WINDHAM COMMUNITY MEMORIAL HOSPITAL,
REGISTERED NURSES UNIT 62,
CONNECTICUT NURSES ASSOCIATION

File June 2, 1977

CASE NO. 1-CA-12,283



EMPLOYER'S EXCEPTIONS

Respondent-Employer hereby takes exception to the decision
of the Administrative Law Judge in the following respects:

1. His conclusion that the Union was at the time of
the hearing a labor organization within the meaning of Section 2(5)
of the Act (Decision, page 2, lines 33-38) is unsupported by any
finding of fact, and any implied finding of fact to that effect has
no basis in the evidence.

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2. His finding that on August 23, 1976, there were 42 employees still on strike (Decision, P.4, l. 4) is unsupported by any evidence, and is contrary to the undisputed evidence that only 23 employees remained on strike on that date.

3. His implied finding that the Union unconditionally and lawfully requested the Employer to bargain on August 23, 1976, (Decision, P. 4, l. 5-18) is contrary to the undisputed evidence.

4. His conclusion that the Employer's objective considerations for withdrawing recognition on August 23, 1976, were insufficient (Decision P. 6, l. 41-43) was contrary to the weight of the evidence.

5. His conclusion that a majority of the employees on August 23, 1976, supported the Union (Decision, P. 7, l.11-12) is contrary to the weight of the evidence and is unsupported by valid findings of fact.

6. His finding that 42 strikers supported the Union (Decision, P. 7, l. 7) has no basis in the evidence.

7. His finding that 16 of 24 non-striking employees supported the Union (Decision, P. 7, l. 9) has no basis in the evidence.

8. His finding that 42 striker replacements did not support the Union (Decision, P. 7, l. 8) has no basis in the evidence.

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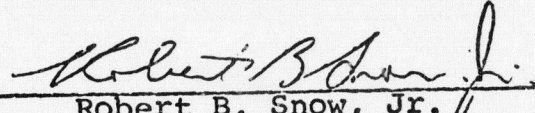
9. His implied finding that all employees other than
st or replacements changed from a 38 - 19 vote in favor of the
Union in August of 1975 (Decision, P. 4, l. 32) to a 58 - 8 tally
in favor of the Union in August of 1976 (Decision, P. 7, l. 8-10)
has no basis in the evidence.

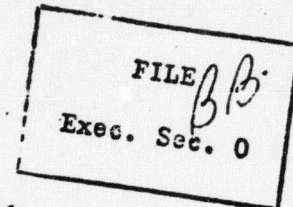
10. His conclusion that the Employer's refusal to bargain
on August 23, 1976, was a precipitating cause for the strike's
continuance (Decision, P. 7, l. 22-24) is unsupported by any
finding of fact.

11. The Board should abandon its present policy of a
rebuttable presumption of continued majority and substitute therefor
a policy of conducting an expedited "recertification election".

WINDHAM COMMUNITY MEMORIAL HOSPITAL
and HATCH HOSPITAL CORPORATION, Respondent

By


Robert B. Snow, Jr.
Its Attorney



UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

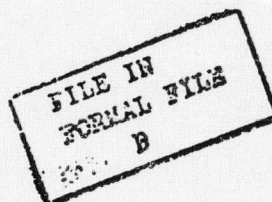
WINDHAM COMMUNITY MEMORIAL
HOSPITAL AND HATCH HOSPITAL
CORPORATION

July 22, 1977

Case 1--CA--12283

and

WINDHAM COMMUNITY MEMORIAL
HOSPITAL, REGISTERED NURSES
UNIT 62, CONNECTICUT NURSES
ASSOCIATION



DECISION AND ORDER

On May 9, 1977, Administrative Law Judge James L. Rose issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and the General Counsel filed an exception and a brief in support of the Administrative Law Judge's Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,^{1/}

^{1/} The Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. Standard Dry Wall Products, Inc., 91 NLRB 544 (1950), enfd. 188 F.2d 362 (C.A. 3, 1951). We have carefully examined the record and find no basis for reversing his findings.

and conclusions of the Administrative Law Judge and to adopt his recommended Order, except as modified herein.

In view of certain comments made by the Administrative Law Judge concerning what presumption may apply as to whether striker replacements support the union, we wish to clarify the law on this issue. The Administrative Law Judge cited our decision in Arkay Packaging Corporation, 227 NLRB No. 59 (1976), for the proposition that replacements for economic strikers "might well be presumed not to want the union to represent them." Further, in deciding that Respondent did not possess sufficient objective considerations upon which to predicate withdrawal of recognition from the Union, the Administrative Law Judge assumed that the replacements hired by Respondent might be counted as opposed to the Union, listing the 42 replacements under a column headed, "Against the Union."^{2/}

The general rule, however, is that new employees, including striker replacements, are presumed to support the union in the same ratio as those whom they have replaced. See, e.g., James W. Whitfield, d/b/a Cutten Supermarket, 220 NLRB 507, 508—509 (1975); Surface Industries, Inc., 224 NLRB 155 (1976). We declined to follow this well-settled principle in Arkay Packaging, supra, deciding that the respondent therein could reasonably presume that the striker replacements did not support the union, only because of the unique circumstance that the union had apparently abandoned the bargaining unit. In short, Arkay Packaging represented a limited exception to the rule recited above, and thus

^{2/} Although the Administrative Law Judge introduced this discussion by stating, "Nor did the Respondent establish that in fact a majority no longer supported the Union," it is clear that he was referring to whether Respondent had adequate objective considerations on which to ground a reasonable doubt of the Union's majority status.

an employer may not usually assume that replacements he may hire for strikers do not support the union.^{3/} Of course, the normal presumption regarding the loyalties of striker replacements is rebuttable.

On a separate point, the Administrative Law Judge correctly found that nonstrikers may not be presumed not to support the union, either because they decided not to strike in the first place or because they decided to return to work during the strike. Contrary to the Administrative Law Judge, however, we do not believe it proper to conclude that, because the Union herein won the election by a ratio of 2 to 1, 8 of the 24 nonstrikers may thus be presumed not to desire union representation in determining whether Respondent had objective considerations sufficient to withdraw recognition. To decide otherwise would be to permit Respondent to rely on a presumption, rather than an objective factor, in assessing support for the Union.

Finally, General Counsel excepts to the Administrative Law Judge's failure "to include in his Order that upon application to Respondent, the strikers are entitled to reinstatement," as the Administrative Law Judge found that the strike was converted from an economic to an unfair labor practice strike on August 23, 1976. In light of the General Counsel's exception, we shall grant the following remedy in lieu of that recommended by the Administrative Law Judge, and we shall modify the recommended Order and notice accordingly.

The Remedy

Having found that Respondent has engaged in an unfair labor practice within the meaning of Section 8(a)(5) and (1) of the Act, we shall order

^{3/} Member Jenkins notes that he dissented in Arkay Packaging and applied the presumption that the replacements supported the union in the same ratio as those whom they replaced.

that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Having further found that the economic strike that began on April 21, 1976, was prolonged on August 23, 1976, by Respondent's unlawful refusal to bargain with the Union and that the strikers therefore became unfair labor practice strikers on and after August 23, 1976, Respondent will be ordered, upon application, to offer to those employees reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges, as follows:

1. Striking employees whose jobs were not filled by permanent replacements before August 23, 1976, are, upon application, to be offered immediate reinstatement, dismissing persons hired on or after that date, if necessary, to make room for them.

2. Striking employees whose jobs were filled by permanent replacements before August 23, 1976, are, upon application, to be offered reinstatement upon departure of their replacements.

In the event Respondent does not reinstate the striking employees in the manner set forth above within 5 days from the date reinstatement is required, backpay shall commence running with interest at 6 percent ^{4/} from the date on which the 5 days expires.

Any dispute over to whom offers of reinstatement must be made and what backpay, if any, is due, may, if necessary, be litigated in a backpay proceeding.

^{4/} As prescribed in F. W. Woolworth Company, 90 NLRB 289 (1950), and Isis Plumbing & Heating Co., 138 NLRB 716 (1962).

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D--2696

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge, as modified herein, and hereby orders that the Respondent, Windham Community Memorial Hospital and Hatch Hospital Corporation, Willimantic, Connecticut, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, as so modified:

1. Add the following as paragraphs 2(b) and (c) and reletter remaining paragraphs accordingly:

"(b) Upon application reinstate the unfair labor practice strikers and make them whole for any loss of earnings that they may have incurred in the manner set forth in the section of this Decision entitled "The Remedy."

"(c) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of back pay due under the terms of this Order."

2. Substitute the attached notice for that of the Administrative Law Judge.

Dated, Washington, D.C. July 22, 1977

Howard Jenkins, Jr., Member

John A. Penello, Member

Peter D. Walther, Member

NATIONAL LABOR RELATIONS BOARD

(SEAL)

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT refuse to recognize and bargain in good faith with Windham Community Memorial Hospital, Registered Nurses Unit 62, Connecticut Nurses Association, as the exclusive representative of our employees in the following bargaining unit:

All full-time and regular part-time Registered Nurses in the Department of Nursing and the Emergency Department including Staff Nurses, IV Therapists, In-Service Instructors, LPN Program Instructors, Utilization Review Nurses and Health Service Coordinator employed by Respondent at its Connecticut hospital, but excluding all other employees, LPN Program Coordinator, In-Service Education Coordinator, Utilization Review Coordinator Supervisor, Head Nurses, Assistant Head Nurses, Emergency Department Supervisor, Operating Room Supervisor, OBS Supervisor, Night Supervisor, Assistant Night Supervisor, Relief Night Supervisor, Evening Supervisor, Assistant Evening Supervisor, Relief Evening Supervisor, Clinical Nursing Supervisor, ICU-CCU Supervisor, Administrative Assistant Supervisor, Director of Nursing, guards and supervisors as defined in Section 2(11) of the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their rights guaranteed them by Section 7 of the National Labor Relations Act.

WE WILL, upon request, recognize and bargain in good faith with Windham Community Memorial Hospital, Registered Nurses Unit 62, Connecticut Nursing Association, as the exclusive representative of the employees in the above-described appropriate unit.

WE WILL, upon application, reinstate our striking employees, who it has been found were, on and after August 23, 1976, protesting our unlawful refusal to bargain with Windham Community Memorial Hospital, Registered Nurses Unit 62, Connecticut Nurses Association, as follows:

- (1) Striking employees whose jobs were not filled by permanent replacements before August 23, 1976, will, upon application, be offered immediate reinstatement, and persons hired on or after that date will be dismissed if necessary to make room for them.

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D-2696

(2) Striking employees whose jobs were filled by permanent replacements before August 23, 1976, will, upon application, be offered reinstatement upon departure of their replacements.

(3) If we do not reinstate the striking employees in the manner set forth above within 5 days from the date reinstatement is required, backpay shall begin running with interest at 6 percent from the date on which the 5 days expire.

WINDHAM COMMUNITY MEMORIAL HOSPITAL
AND HATCH HOSPITAL CORPORATION
(Employer)

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 12th Floor, Keystone Building, 99 High Street, Boston, Massachusetts 02110, Telephone 617--223--3313.

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of

WINDHAM COMMUNITY MEMORIAL HOSPITAL
AND HATCH HOSPITAL CORPORATION

and

WINDHAM COMMUNITY MEMORIAL HOSPITAL
REGISTERED NURSES UNIT 52, CONNECTICUT
NURSES ASSOCIATION

CASE NO. 1-CA-12,283

NOTICE OF INTENT TO AMEND COMPLAINT

NOW COMES Patricia L. Timmins, Counsel for the General Counsel, and hereby notifies all parties of her intention to move that the Administrative Law Judge at the hearing of the above-captioned matter amend the Complaint heretofore issued on November 19, 1976 in the following respects:

1. Paragraphs presently numbered 17 through 20 are hereby renumbered consecutively such that they become Paragraphs 18 through 21.

2. A new Paragraph 17 is added to read:

"By the acts described above in Paragraph 16, Respondent did convert the economic strike described above in Paragraph 13 into an unfair labor practice strike."

Respectfully submitted,

Patricia L. Timmins

Patricia L. Timmins, Counsel for the
General Counsel
National Labor Relations Board
First Region
Boston, Massachusetts

Dated at Boston, Massachusetts
this 7th day of March, 1977.

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RE: WINDHAM COMMUNITY MEMORIAL HOSPITAL
AND HATCH HOSPITAL CORPORATION
Case No. 1-CA-12,283=

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.

614530

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

DATE OF DELIVERY: 12/22/76

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK
DEC 22

CLERK'S INITIALS

★ GPO: 1975-O-568-047

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.

614532

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

DATE OF DELIVERY: 12/23/76

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK

CLERK'S INITIALS

★ GPO: 1975-O-568-047

1-20
Tanner

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of
WINDHAM COMMUNITY MEMORIAL HOSPITAL
and HATCH HOSPITAL CORPORATION
and
WINDHAM COMMUNITY MEMORIAL HOSPITAL,
REGISTERED NURSES UNIT 62,
CONNECTICUT NURSES ASSOCIATION

CASE NO. 1-CA-12,283

ANSWER

1. Paragraph 1 is denied. The Charge was filed in the name of two parties, namely "Connecticut Nurses' Association" and "Unit 62, C.N.A.", but was signed only by Melody D. Treadwell as "Economic Security Staff Representative, C.N.A.".
2. - 5. Paragraphs 2 - 5 are admitted.
6. As to paragraph 6, Respondent has no knowledge thereof sufficient to form a belief, and therefore it is denied.
7. As to Paragraph 7, Respondent admits that Robert B. Snow, Jr. has been and now is its attorney, and that Frank E. Ritchie, Administrator, and Barbara Kane, Director of Nursing, have been and now are agents for Respondent, acting on its behalf, and are supervisors within the meaning of Section 2(11) of the Act.

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8. - 10. Paragraphs 8 - 10 are admitted.

11. Respondent admits the allegations of Paragraph 11 but only with respect to the period from August 15, 1975, to April 21, 1976. With respect to the period after April 21, 1976, the allegations are denied.

12. - 14. Paragraphs 12 - 14 are admitted.

15. With respect to Paragraph 15, Respondent admits that on or about August 23, 1976, Mary Lou Millar stated that if Respondent would be willing to rehire immediately 11 part-time and 12 full-time striking employees, and if Respondent would agree in advance to certain other terms and conditions, then the Union would be interested in resuming negotiations. The balance of said paragraph is denied.

16. With respect to Paragraph 16, Respondent admits that since August 23, 1976, it has not bargained collectively with the Union.

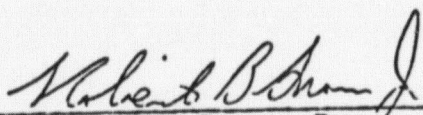
17. - 20. Paragraphs 17 - 20 are denied.

AFFIRMATIVE DEFENSE

Since August 15, 1976, Respondent has had a good faith doubt as to the Union's majority.

WINDEHAM COMMUNITY MEMORIAL HOSPITAL
and HATCH HOSPITAL CORPORATION

By


Robert B. Snow, Jr.
Its Attorney

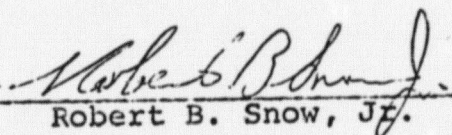
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CERTIFICATION

This is to certify that a copy of the foregoing was mailed
postage prepaid, this 29th day of November, 1976, to:

Windham Community Memorial Hospital
Registered Nurses Unit 62
Connecticut Nurses' Association
One Prestige Drive
Meriden, Connecticut 06450
Attn. Melody D. Treadwell
Economic Security Staff Rep.

Karl Klare, Esq.
Segal, Roitman & Coleman
11 Beacon Street
Boston, Massachusetts 02108


Robert B. Snow, Jr.

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of

WINDHAM COMMUNITY MEMORIAL HOSPITAL
AND HATCH HOSPITAL CORPORATION

and

CASE NO. 1-CA-12,283

WINDHAM COMMUNITY MEMORIAL HOSPITAL,
REGISTERED NURSES UNIT 62,
CONNECTICUT NURSES ASSOCIATION

COMPLAINT AND NOTICE OF HEARING

It having been charged by Windham Community Memorial Hospital, Registered Nurses Unit 62, Connecticut Nurses Association, One Prestige Drive, Meriden, Connecticut 06450 (herein called the Union) that Windham Community Memorial Hospital and Hatch Hospital Corporation, Mansfield Avenue, Willimantic, Connecticut 06226 (herein called Respondent) has been engaging in and is engaging in unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq. (herein called the Act) the General Counsel of the National Labor Relations Board (herein called the Board), on behalf of the Board, by the undersigned Regional Director, issues this Complaint and Notice of Hearing pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, Series 8, as amended.

1. The Charge in this proceeding was filed by the Union on October 4, 1976 and a copy thereof served upon Respondent on October 4, 1976.

2. Respondent is and has at all times material herein been a corporation duly organized under and existing by virtue of the laws of the State of Connecticut.

(c)

3. At all times herein mentioned, Respondent has maintained its principal office and place of business at Mansfield Avenue, in the City of Willimantic, and State of Connecticut (herein called the hospital), and is now and continuously has been engaged at said hospital in providing health care services.

4(a) Respondent in the course and conduct of its business causes, and continuously has caused at all times herein mentioned, large quantities of food, health care products and related goods and services used by it in the operation of its non-profit hospital to be purchased and transported in interstate commerce from and through various States of the United States other than the State of Connecticut.

(b) Respondent's annual gross revenue is in excess of \$250,000.

(c) Respondent annually receives goods, materials and services valued in excess of \$50,000 at its Willimantic, Connecticut location directly from points located outside the State of Connecticut.

5. The aforesaid Respondent is and has been engaged in commerce within the meaning of the Act.

6. The Union is a labor organization within the meaning of Section 2(5) of the Act.

7. At all times material herein, the following named persons occupied positions set opposite their respective names, and have been and are now agents of the Respondent, acting on its behalf, and are supervisors within the meaning of Section 2(11) of the Act.

Robert B. Snow, Jr.	Attorney for Respondent
Frank E. Ritchie	Administrator
Barbara Kane	Director of Nurses

8. All full-time and regular part-time Registered Nurses in the Department of Nursing and the Emergency Department including Staff Nurses, IV Therapists, In-service Instructors, LPN Program Instructors, Utilization Review Nurses and Health Service Coordinator employed by Respondent at its Connecticut hospital, but excluding all other employees,

LPN Program Coordinator, In-service Education Coordinator, Utilization Review Coordinator Supervisor, Head Nurses, Assistant Head Nurses, Emergency Department Supervisor, Operating Room Supervisor, OBS Supervisor, Night Supervisor, Assistant Night Supervisor, Relief Night Supervisor, Evening Supervisor, Assistant Evening Supervisor, Relief Evening Supervisor, Clinical Nursing Supervisor, ICU-CCU Supervisor, Administrative Assistant Supervisor, Director of Nursing, guards and supervisors as defined in Section 2(11) of the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

9. On or about August 7, 1975 a majority of the employees described above in Paragraph 8 selected the Union as their representative for the purposes of collective bargaining with Respondent.

10. On or about August 15, 1975 the Union was certified by the Regional Director for the First Region of the Board as the representative for the purposes of collective bargaining with the Respondent for the employees described above in Paragraph 8.

11. At all times since August 15, 1975 the Union has been the representative for the purposes of collective bargaining of a majority of the employees in the said unit and, by virtue of Section 9(a) of the Act, has been and is now the exclusive representative of all the employees in the said unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

12. On November 6, 1975 negotiations began between Respondent and the Union.

13. On April 21, 1976 certain of the employees described above in Paragraph 8, represented by the Union, went out on an economic strike against the hospital.

14. On or about June 9, 1976 the Union and Respondent held their last negotiating meeting.

15. On or about August 23, 1976, the Union requested Respondent to bargain collectively in respect to rates of pay, wages, hours of employment or other conditions of employment with the Union as the exclusive representative of all the employees of Respondent in the unit described above in Paragraph 8.

16. On or about August 23, 1976 and at all times thereafter, Respondent did refuse and continues to refuse to bargain collectively with the Union as the exclusive representative of all the employees in the unit described above in Paragraph 8.

17. By the acts described above in Paragraph 16, Respondent did engage in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) of the Act.

18. By the acts described above in Paragraph 16, and by each of said acts, Respondent did interfere with, restrain and coerce and is interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act and thereby did engage in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

19. The activities of Respondent, described above in Paragraph 16, occurring in connection with the operations of Respondent, described above in Paragraphs 3 and 4 have a close, intimate, and substantial relation to trade, traffic and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

20. The acts of Respondent described above, constitute unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5), and Section 2(6) and (7) of the Act.

PLEASE TAKE NOTICE that on the 6th day of June, 1977, at 11 o'clock in the forenoon, Eastern Daylight Saving Time and consecutive days thereafter until concluded, at a place to be determined in Hartford,

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Connecticut, a hearing will be conducted before a duly designated Administrative Law Judge of the National Labor Relations Board on the allegations set forth in the above Complaint, at which time and place you will have the right to appear in person, or otherwise, and give testimony. Form NLRB-4668, Statement of Standard Procedures in Formal Hearings Held Before the National Labor Relations Board in Unfair Labor Practice Cases, is attached.

You are further notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, the Respondent shall file with the undersigned Regional Director, acting in this matter as agent of the National Labor Relations Board, an original and four (4) copies of an Answer to said Complaint within ten (10) days from the service thereof and that unless it does so, all of the allegations in the Complaint shall be deemed to be admitted to be true and may be so found by the Board. Immediately upon the filing of its Answer, Respondent shall serve a copy thereof on each of the other parties.

WHEREFORE, the General Counsel of the National Labor Relations Board, on behalf of the Board, by the Regional Director for the First Region, on this 19th day of November, 1976, issues this Complaint and Notice of Hearing against Windham Community Memorial Hospital and Hatch Hospital Corporation, Respondent herein.


Robert S. Fuchs, Regional Director
National Labor Relations Board
First Region
Boston, Massachusetts

SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD BEFORE THE
NATIONAL LABOR RELATIONS BOARD IN UNFAIR LABOR PRACTICE PROCEEDINGS
PURSUANT TO SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The hearing will be conducted by an Administrative Law Judge of the National Labor Relations Board. He will preside at the hearing as an independent, impartial trier of the facts and the law and his decision in due time will be served on the parties. His headquarters are either in Washington, D.C. or San Francisco, California.

At the date, hour, and place for which the hearing is set, the Administrative Law Judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to assure that the issues are sharp and clear-cut; or he may, on his own initiative, conduct such a conference. He will preside at any such conference, but he may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record -- for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the Administrative Law Judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or to make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the Administrative Law Judge for his approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the Administrative Law Judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the Administrative Law Judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The Administrative Law Judge will allow an automatic exception to all adverse rulings, and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

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All exhibits offered in evidence shall be in duplicate. Copies shall also be supplied to other parties. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy before the close of hearing. In the event such copy is not submitted, and the filing thereof has not for good reason shown been waived by the Administrative Law Judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. In the absence of a request, the Administrative Law Judge may himself ask for oral argument, if at the close of the hearing he believes that such argument would be beneficial to his understanding of the contentions of the parties and the factual issues involved.

Any party shall also be entitled upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the Administrative Law Judge who will fix the time for such filing.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations with respect to the procedure to be followed before the proceeding is transferred to the Board:

No request for an extension of time within which to submit briefs or proposed findings to the Administrative Law Judge will be considered unless received by the Chief Administrative Law Judge in Washington, D. C. (or in cases under the San Francisco, California branch office of the Division of Judges, the Presiding Judge in charge of such office) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously upon all other parties, and proof of such service furnished to the Chief Administrative Law Judge or Presiding Judge as the case may be. All briefs or proposed findings filed with the Administrative Law Judge must be submitted in triplicate, and may be in typewritten, printed, or mimeographed form, with service upon the other parties.

In due course the Administrative Law Judge will prepare and file with the Board his decision in this proceeding, and will cause a copy thereof to be served upon each of the parties. Upon filing of the said decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, upon all parties. At that point, the Administrative Law Judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the Administrative Law Judge's Decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, Series 8, as amended, particularly in Section 102.46, and following sections. A summary of the more pertinent of these provisions will be served upon the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the Act reduce government expenditures and promote amity in labor relations. Upon request, the Administrative Law Judge will afford reasonable opportunity during the hearing for discussions between the parties if adjustment appears possible, and may himself suggest it.

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NATIONAL LABOR RELATIONS BOARD

Case No. 1-CA-12,283 OFFICIAL EXHIBIT NO. GC-2

BYLAWS

~~WINDHAM MEMORIAL COMMUNITY HOSPITAL REGISTERED NURSES UNIT 62~~

Disposition { Received ✓ CONNECTICUT NURSES' ASSOCIATION

Rejected _____
The matter of Windham Hosp
3-15-7 Witness _____ Reporter AB

ARTICLE I
Name

Pages 2

Section 1:

The name of this organization shall be the Windham Memorial Community Hospital Registered Nurses, Unit 62, Connecticut Nurses' Association.

ARTICLE II
Purpose

Section 1:

Local Unit 62 shall be concerned with the general welfare of its members and will exist principally to adjust grievances and bargain collectively for hours, wages and conditions of employment.

ARTICLE III
Membership

Section 1:

Registered Nurses who are regularly employed at Windham Memorial Community Hospital shall be eligible for membership in this organization.

Section 2:

Said employees shall be members in good standing in Unit 62 of the Connecticut Nurses' Association.

ARTICLE IV
Officers and duties of officers

Section 1:

Officers shall consist of a chairperson, secretary and a treasurer and also be members of the executive board of Local Unit 62.

Section 2:

Duties of chairperson of Local Unit 62 shall be as follows:

- a. Preside over all regular and special meetings of Local Unit 62.
- b. Act as liaison officer between the administrative body and the unit membership.
- c. Be responsible for the orientation of new staff members to the purposes and functions of the Unit.

- d. Attend negotiations.
- e. Report results of negotiations activity to the Unit.
- f. Appoint any new committees as the need arises.

Section 3:

Duties of the secretary of the Unit shall be as follows:

- a. Record all minutes of every meeting.
- b. Handle all necessary correspondence.
- c. Keep a list of the membership of the Unit.
- d. Notify all unit members of the time and place of special meetings of the Unit.
- e. Send to C.N.A. and to the Nursing Administrator of the Hospital the names of all officers and committee chairpersons following election or appointment.

Section 4:

Duties of the treasurer of the Unit shall be as follows:

- a. Keep financial records of Local Unit 62 and report to the membership the financial status at any regular meeting of Unit 62.

Section 5:

Any officer shall fail to attend two consecutive meetings without valid reason shall be asked to resign her position.

ARTICLE V
Committees and Functions

Section 1:

There shall be the following committees:

A. Negotiating Committee

- 1. There shall be a chairperson elected for two (2) years commencing on November 1 of the odd year, who will also serve as chairperson in the absence of the Unit Chairperson and shall also serve on the Executive Board of Local Unit 62.
- 2. The Negotiation Committee shall consist of not less than three (3) members elected for a two year period commencing on November 1 of the odd year.

B. Grievance Committee

- 1. There shall be a committee consisting of not less than three (3) members elected by the unit members for a two year period commencing on November 1 of the even year.
- 2. These committee members shall elect a chairperson who shall also serve on the Executive Board of Local Unit 62.

ARTICLE VI
Functions of the Unit

Section 1:

The Unit shall elect the officers for Chairperson, Secretary and Treasurer.

The Unit shall elect the members of the Grievance Committee.

The Unit shall elect the members of the Negotiating Committee and the Chairperson.

Section 2:

The Unit shall function in the following ways:

- A. Adopt Bylaws for local government.
- B. Set up a schedule for regular planned meetings.
- C. Gain improvements in employment conditions through a written contract signed by the employer, the nurses' representative, and the C.N.A. representative.
- D. Collect data on salaries and personnel policies from various sources under guidance of C.N.A. headquarters.
- E. Solicit suggestions for new or changed policies from unit members.
- F. Interpret recommendations to the C.N.A. representatives.

ARTICLE VII
Elections and terms of offices

Section 1:

Election of officers shall take place the first week in April biennially on the even year and the newly elected officers shall take office on the first day of May of the even year.

Section 2:

All elections shall be by secret ballot.

Section 3:

All officers shall serve for terms of office of two years.

Section 4:

The retiring officers and committee members shall serve as an advisory board for the new officers, if so requested.

ARTICLE VIII
Meetings and Quorum

Section 1:

Meetings of Local Unit 62 shall be held at least two times a year.

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- 4 -

Section 2:

A quorum shall consist of one-half plus one of the Local Unit 62 membership present.

Section 3:

Meetings of the Negotiating Committee members shall be held on call.

Section 4:

A quorum consisting of one-half plus one of the Negotiating Committee members must be present at any given meeting.

Section 5:

Meetings of the Grievance Committee Members shall be held on call.

Section 6:

A quorum consisting of one-half plus one of the Grievance Committee members must be present at any given meeting.

ARTICLE IX
Amendments

Section 1:

These Bylaws may be amended at any regular or special meeting of the Unit by a 2/3 vote of the members present and voting, providing the proposed amendments shall have been circulated to all members one month in advance of the meeting.

Adopted: _____

ck:5/13/75:95

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RC-RM-RD

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

WINDHAM COMMUNITY MEMORIAL HOSPITAL, INC.
and HATCH HOSPITAL CORPORATION

Employer

and

WINDHAM COMMUNITY MEMORIAL HOSPITAL,
REGISTERED NURSES UNIT 62, CONN.
NURSES' ASSOCIATION

Petitioner

TYPE OF ELECTION

(Check one)

- ☐ Consent Agreement
☒ Stipulation
☐ Board Direction
☐ RD Direction

(Also check box
below where
appropriate)

☐ 8(b)(7)

Case No. 1-RC-13,828

CERTIFICATION OF REPRESENTATIVE

An election having been conducted in the above matter under the supervision of the Regional Director of the National Labor Relations Board in accordance with the Rules and Regulations of the Board; and it appearing from the Tally of Ballots that a collective bargaining representative has been selected; and no objections having been filed to the Tally of Ballots furnished to the parties, or to the conduct of the election, within the time provided therefor;

Pursuant to authority vested in the undersigned by the National Labor Relations Board,
IT IS HEREBY CERTIFIED that a majority of the valid ballots have been cast for

Windham Community Memorial Hospital, Registered Nurses Unit 62,
Conn. Nurses' Association

and that, pursuant to Section 9(a) of the National Labor Relations Act, as amended, the said labor organization is the exclusive representative of all the employees in the unit set forth below, found to be appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

All full time and regular part time Registered Nurses in the Department of UNIT: Nursing and the Emergency Department including Staff Nurses, I.V. Therapists, In-service Instructors, LPN Program Instructors, Utilization Review Nurses and Health Service Coordinator, employed by the Employer at its Connecticut Hospital, but excluding all other employees, LPN Program Coordinator, In-service Education Coordinator, Utilization Review Coordinator Supervisor, Head Nurses, Assistant Head Nurses, Emergency Department Supervisor, Operating Room Supervisor, QES Supervisor, Night Supervisor, Assistant Night Supervisor, Relief Night Supervisor, Evening Supervisor, Assistant Evening Supervisor, Relief Evening Supervisor, Clinical Nursing Supervisor, ICU-CCU Supervisor, Administrative Assistant Supervisor, Director of Nursing, guards and supervisors as defined in the Act.

Signed at Boston, Massachusetts
On the 15th day of August

19 75

On behalf of

NATIONAL LABOR RELATIONS BOARD



/s/ Ernest Modern

Regional Director, Region One
National Labor Relations Board

NATIONAL LABOR RELATIONS BOARD

Docket No. 1-CA-12,283 OFFICIAL EXHIBIT NO. J-1

Disposition

Identified ☒
Received ☒
Signed ☒

In the matter of Windham Hatch
Date 8-15-77 Witness Reporter

No. Pages 3

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

CERTIFICATION ON CONDUCT OF ELECTION

Name of employer WINDHAM COMMUNITY MEMORIAL HOSPITAL
INC. and HATCH HOSPITAL CORPORATION Case No. 1-RC-13,028

Date of election August 7, 1975 Place Willimantic, Connecticut

The undersigned acted as agents of the Regional Director and as authorized observers, respectively, in the conduct of the balloting at the above time and place.

WE HEREBY CERTIFY that such balloting was fairly conducted, that all eligible voters were given an opportunity to vote their ballots in secret, and that the ballot box was protected in the interest of a fair and secret vote.

For EMPLOYER

For the Regional Director, Region one

6:30 to 8:30 a.m.

2:30 to 5:00 p.m.

For PETITIONER

For

6:30 to 8:30 a.m.

2:30 to 5:00 p.m.

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARDWINDHAM COMMUNITY MEMORIAL HOSPITAL, INC.
HATCH HOSPITAL CORPORATION

Employer

and

WINDHAM COMMUNITY MEMORIAL HOSPITAL,
REGISTERED NURSES UNIT 62, CONN.
NURSES' ASSOCIATION

Petitioner

Case No. 1-RC-13,828
Date Filed 5/5/75

Date issued August 7, 1975

Type of Election:
(Check one:)

- ☒ Stipulation
☐ Board Direction
☐ Consent Agreement
☐ RD Direction

(If applicable
check either
or both:)

- ☐ 8(b) (7)
☐ Mail Ballot
none

Incumbent Union (Code)

TALLY OF BALLOTS

The undersigned agent of the Regional Director certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated above, were as follows:

1. Approximate number of eligible voters 65
2. Valid ballots 0
3. Votes cast for PETITIONER 38
4. ~~XXXXXXXXXX~~
5. ~~XXXXXXXXXX~~
6. Votes cast against participating labor organization(s) 19
7. Valid votes counted (sum of 3, 4, 5, and 6) 57
8. Challenged Ballots 5
9. Valid votes counted plus challenged ballots (sum of 7 and 8) 58
10. Challenges are (not) sufficient to affect the results of the election.
11. A majority of the valid votes counted plus challenged ballots (item 9) has (not) been cast for:

PETITIONER

For the Regional Director

Charles E. Wember

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For EMPLOYER

Kenneth R. Penney

For PETITIONER

Elizabeth B. G. Kuntz

For

For

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5/30 PM

10/25/76

	1	2	3	4	5	6
	Went on strike	Returned to work	Replanned	Resigned	Other	Remarks
4/16						
Smith, B.	4/21					5/13
Clapp	4/21					5/13
Clark	4/21					5/13
Dittman	4/21					5/13
Edwards	4/21					5/13
Field	4/21					5/13
Greene	4/21					5/13
Hacker	4/21					5/13
Lander	4/21					5/13
Logan	4/21					5/13
Tierce	4/21					5/13
Tillman	Never went out					
Bell	4/21	5/13				
Bedard	4/21	5/13				
Daniel	4/21	5/13				
Grissell	4/21	5/13				
Hansell	4/21	5/13				
Haines	4/21	5/13				
LaRue	4/21	5/13				
Litwak	4/21	5/13				
Macaulay	4/21	5/13				
Maguire	4/21	5/13				
Madachon	4/21	5/13				
Margot	4/21	5/13				
McDonna	4/21	5/13				
McQuinn	4/21	5/13				
Mendenhall	4/21	5/13				
O'Connell	4/21	5/13				
Pacheco	4/21	5/13				
Spencer	4/21	5/13				
St. Marie	4/21	5/13				
Touko	4/21	5/13				
Weiss	4/21	5/13				
Wiziba	4/21	5/13				
Wiziba	4/21	5/13				
Wiziba	4/21	5/13				
Scheider	4/21	5/13				

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		1	2	3	4	5
		Went	Returned	Replaced	Resigned	
		per	to			
		Strike	1/2/42			
4/18	Calachena	4/1	10/5			
1	Blanchard	4/1	7/11			
2	Littell	4/1	7/11			
3	McClure	4/1	7/11			
4	Heifner	4/1	7/11			
5	McClure	4/1	7/11			
6	McClure	4/1	7/11			
7	McClure	4/1	7/11			
8	LOA	4/1	7/11	McClure	in November	
9	Blanchard	4/1	7/11			
10	Blanchard	4/1	7/11			
11	Deshaies	4/1	7/11			
12	Deshaies	4/1	7/11			
13	Deshaies	4/1	7/11			
14	Deshaies	4/1	7/11			
15	Deshaies	4/1	7/11			
16	Deshaies	4/1	7/11			
17	Deshaies	4/1	7/11			
18	Deshaies	4/1	7/11			
19	Deshaies	4/1	7/11			
20	Deshaies	4/1	7/11			
21	Deshaies	4/1	7/11			
22	Deshaies	4/1	7/11			
23	Deshaies	4/1	7/11			
24	Deshaies	4/1	7/11			
25	Deshaies	4/1	7/11			
26	Deshaies	4/1	7/11			
27	Deshaies	4/1	7/11			
28	Deshaies	4/1	7/11			
29	Deshaies	4/1	7/11			
30	Deshaies	4/1	7/11			
31	Deshaies	4/1	7/11			
32	Deshaies	4/1	7/11			
33	Deshaies	4/1	7/11			
34	Deshaies	4/1	7/11			
35	Deshaies	4/1	7/11			
36	Deshaies	4/1	7/11			
37	Deshaies	4/1	7/11			
38	Deshaies	4/1	7/11			
39	Deshaies	4/1	7/11			
40	Deshaies	4/1	7/11			

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And still - keep
New nurses on staff

	1	2	3	4	5	6
	Date of Employ- ment					
Beattie	5/3					
Spink	4/23					
Whitworth	4/24					
Scott	4/24					
Tilbitt	4/28					
Quinlan	5/10					
Rainey	5/10					
Nicola	5/15					
Huelock	5/15					
Wisiowski	6/7					
Ellis	6/7					
Arbrey	6/7					
Bischoff	6/7					
Larsen	6/7					
Corcoran A.	6/14					
Coganella	6/21					
Atken	6/21					
Locke	6/21					
Sheets	6/21					
DeLoe	6/21					
Carpenter	7/5					
O'Brien	7/7					
Constanconi	7/12					
Price	7/12					
Larson	7/12					
Crosscup	7/12					
Perlow	7/26					
Flawell	8/16					
Baldwin	9/13					
Kiley	9/13					
Blanchard	9/13					
Ryan	9/13					
Cross	9/13					
Hurt	9/13					
Barton	9/13					
Tilley	9/13					
Palumbo	9/13					
Schneider	4/30					
Howes	7/16					
Morrotte	7/5					
Lee	9/25					

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Nurses who came to
work during strike and have left

		Defect Exempt	Present Position	Defect after	Super
	W. H. Post	4/1/22	2-1-1-1-1	9/15	
1	T. Etchells	4/1/22		9/15	
2	T. Stockstater	4/1/22		7/12	
3	T. Wehner	4/1/22		9/15	
4	T. Allen	4/1/22		10/15	
5	T. Clairmont	4/1/22		8/21	
6	T. Hale	4/1/22		8/27	
7	T. Turner	4/1/22		9/15	
8	T. Gadsden	4/1/22		7/11	
9	T. Hollister	4/1/22		6/18	
10	Brousseau	4/1/22		1/15	
11	Morris	4/1/22		5/21	
12	Makinson	4/1/22		10/21	
13	Johnson	4/1/22		6/15	
14	W. H. Land	4/1/22		8/27	
15	T. Mason	4/1/22		1	
16	T. Land	4/1/22		9/26	
17	T. Land	4/1/22		8/20	
18	T. Clark	4/1/22			
19					
20					
21					
22					
23					
24					
25					
26					
27					
28					
29					
30					
31					
32					
33					
34					

Windham
I.C. Mann, Jr. -
Confidential -

not including Eula - whose father is patient.

unge röhren -

W.C. due to get something to change on ship.

In the matter of Wendell H. Ford
Date 3-15-77 Witness _____ Reporter RB
No. Pages _____

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NATIONAL LABOR RELATIONS BOARD

Docket No. 1-CA-12,263 OFFICIAL EXHIBIT NO. E-2

Page One

Disposition

State of Conn.)
County of Windham)In the matter of Windham Hosp
Date 3-5-77 Witness NR
No. Pages 4I, Frank Ritchie, being first duly sworn

upon my oath do hereby depose and state:

I have been given assurances by an agent of the National Labor Relations Board that the statement I am about to make will be kept confidential by the United States Government unless and until I am called to testify at a hearing.

Address: Windham Community Memorial Hospital
Windham CT 06226
Phone: 423-9201

Social Security number:

1. I am the administering officer of the hospital and have held this position about 1 year.
2. RN Wenzel, did not go out on strike. In about May or June 1976 during a State inspection I saw her at the Coronary Care unit. During the inspection I started chatting with Wenzel. The subject of the strike came up. Wenzel told me in so many words "anti-union" feelings. She told me that they were crazy to strike because employment conditions were good here.
3. L. Tomko, RN did not strike. I had numerous conversations with her during the strike at the Coronary Unit and in the Cafeteria.

JFR

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One Saturday I spoke with her in the cafeteria in about May. The subject of the strike came up. Tomko mentioned the fact she worked in California at a hospital where there was a strike. She expressed anti Union sentiments. I can't recall her exact words.

3. Pat. Donnelly requested to see me at my office in August 1976. She asked me what she could do to end the strike and asked me about decertification. I told her the only advice I could give her was to call the workers, and I could give her the telephone number. She asked if she did this would not jeopardize ~~us~~ the hospital's position in negotiations on the strike. I told her to just wait and see what happened.

During the strike, Donnelly told me she did not want the Union. I do not recall the dates.

4. RW Newham, did not smile. During the strike she told me that she was against the strike, this was during one of my rounds when I talked to her.

JHE

5. Norma Spencer, dual Unit School,
Early in the strike she sent out a
newsletter to all striking nurses.
About that time I was in the
Maternity Section and in a
conversation she asked about mailing
out a newsletter as she was upset
over the nurses striking. I told
her if she wanted to mail this
out on her own - she was free to
do it. I didn't give the exact
words but she told me she
was against the Union, because
nurses were a professional group
of people and took an oath.

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I have read the above statement consisting of 3
pages and declare it is true and correct to the best of my knowledge and
belief.

Frank E Ritchie

Subscribed and sworn to before me

this 26th day of Oct, 19 26
at Windsor CT.

Albert N. Scieglitz
Albert N. Scieglitz, Attorney
National Labor Relations Board
First Region